

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 361

Short Title: No Drugs at School Bus Stops.

(Public)

Sponsors: Representatives Jeralds; Bowman, H. Hunter, Hurley, Jeffus, Justus, Mercer, Privette, Smith, and Warner.

Referred to: Judiciary III.

March 28, 1991

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT CERTAIN DRUG OFFENSES COMMITTED AT
2 LOCATIONS DESIGNATED AS SCHOOL BUS STOPS SHALL BE
3 PUNISHABLE AS CLASS E FELONIES.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 90-95(e) reads as rewritten:

7 "(e) The prescribed punishment and degree of any offense under this Article shall
8 be subject to the following conditions, but the punishment for an offense may be
9 increased only by the maximum authorized under any one of the applicable conditions:

10 (1),(2) Repealed by Session Laws 1979, c. 760, s. 5.

11 (3) If any person commits an offense under this Article for which the
12 prescribed punishment includes imprisonment for not more than two
13 years, and if he has previously been convicted for one or more offenses
14 under any law of North Carolina or any law of the United States or any
15 other state, which offenses are punishable under any provision of this
16 Article, he shall be punished as a Class I felon;

17 (4) If any person commits an offense under this Article for which the
18 prescribed punishment includes imprisonment for not more than six
19 months, and if he has previously been convicted for one or more
20 offenses under any law of North Carolina or any law of the United
21 States or any other state, which offenses are punishable under any
22 provision of this Article, he shall be guilty of a misdemeanor and shall
23 be sentenced to a term of imprisonment of not more than two years or

1 fined not more than two thousand dollars (\$2,000), or both in the
2 discretion of the court;

3 (5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by
4 selling or delivering a controlled substance to a person under 16 years
5 of age or a pregnant female shall be punished as a Class E felon.
6 Mistake of age is not a defense to a prosecution under this section. It
7 shall not be a defense that the defendant did not know that the recipient
8 was pregnant;

9 (6) For the purpose of increasing punishment, previous convictions for
10 offenses shall be counted by the number of separate trials at which
11 final convictions were obtained and not by the number of charges at a
12 single trial;

13 (7) If any person commits an offense under this Article for which the
14 prescribed punishment requires that any sentence of imprisonment be
15 suspended, and if he has previously been convicted for one or more
16 offenses under any law of North Carolina or any law of the United
17 States or any other state, which offenses are punishable under any
18 provision of this Article, he shall be guilty of a misdemeanor and shall
19 be sentenced to a term of imprisonment of not more than six months or
20 fined not more than five hundred dollars (\$500.00), or both in the
21 discretion of the court;

22 (8) Any person 21 years of age or older who commits an offense under
23 G.S. 90-95(a)(1) on property used for an elementary or secondary
24 school or within 300 feet of the boundary of real property used for an
25 elementary or secondary school shall be punished as a Class E felon.
26 Any person 21 years of age or older who, on property designated as a
27 school bus stop for receiving and discharging pupils in accordance
28 with G.S. 115C-246, commits an offense under G.S. 90-95(a)(1) shall
29 be punished as a Class E felon. For purposes of this subdivision, the
30 transfer of less than five grams of marijuana for no remuneration shall
31 not constitute a delivery in violation of G.S. 90-95(a)(1). A person
32 sentenced under this subdivision must serve a mandatory term of
33 imprisonment of no less than two years, notwithstanding the
34 provisions of G.S. 90-95(h)(5) or any other law. The sentencing judge
35 may not suspend the mandatory two-year term of imprisonment or
36 place the person on probation for the mandatory two-year term of
37 imprisonment. During that time the prisoner is not eligible for early
38 parole or early release."

39 Sec. 2. This act becomes effective October 1, 1991, and applies to offenses
40 occurring on or after that date.