

Introduced by

Representatives Olson, M. Nelson

1 A BILL for an Act to amend and reenact subsections 1 and 5 of section 19-03.1-23 of the North
2 Dakota Century Code, relating to mandatory sentences; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Subsections 1 and 5 of section 19-03.1-23 of the North Dakota
5 Century Code are amended and reenacted as follows:

6 1. Except as authorized by this chapter, it is unlawful for any person to willfully, as
7 defined in section 12.1-02-02, manufacture, deliver, or possess with intent to
8 manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a
9 controlled substance by means of the internet, but any person who violates section
10 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who
11 violates this subsection with respect to:

12 a. A controlled substance classified in schedule I or II which is a narcotic drug, or
13 methamphetamine, is guilty of a class A felony and must be sentenced:

14 (1) For a second offense, to imprisonment for at least five years.

15 (2) For a third or subsequent offense, to imprisonment for ~~twenty~~at least ten
16 years.

17 b. Any other controlled substance classified in schedule I, II, or III, or a controlled
18 substance analog is guilty of a class B felony. Except for a person who
19 manufactures, delivers, or possesses with the intent to manufacture or deliver
20 marijuana, any person found guilty under this subdivision must be sentenced:

21 (1) For a second offense, to imprisonment for at least three years.

22 (2) For a third or subsequent offense, to imprisonment for ~~ten~~at least five years.

23 c. A controlled substance classified in schedule IV, is guilty of a class C felony and
24 must be sentenced:

- 1 (1) For a second offense, to imprisonment for at least six months.
- 2 (2) For a third offense, to imprisonment for at least one year.
- 3 (3) For a fourth or subsequent offense, to imprisonment for ~~five~~ at least three
- 4 years.
- 5 d. A controlled substance classified in schedule V, is guilty of a class A
- 6 misdemeanor.
- 7 5. A felony violation of this chapter or a law of another state or the federal government
- 8 which is equivalent to an offense under this chapter committed while the offender was
- 9 an adult and which resulted in a plea or finding of guilt must be considered a prior
- 10 offense under subsections 1, 3, and 4. The prior offense must be alleged in the
- 11 complaint, information, or indictment. The plea or finding of guilt for the prior offense
- 12 must have occurred before the date of the commission of the offense or offenses
- 13 charged in the complaint, information, or indictment.