

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

D

SENATE DRS55003-LH-27 (12/12)

Short Title: Expand Safe Zones/Schools, Parks, Child Ctrs. (Public)

Sponsors: Senator Boseman.

Referred to:

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE THE "SAFE ZONES" NEAR CHILD CARE CENTERS
2 AND SCHOOL GROUNDS REGARDING ILLEGAL DRUG SALES FROM
3 THREE HUNDRED FEET TO ONE THOUSAND FEET, TO EXPAND THE
4 "SAFE ZONE" FOR PUBLIC PARKS TO INCLUDE ALL PUBLIC PARKS, NOT
5 JUST THOSE WITH PLAYGROUNDS AND TO INCREASE THE DISTANCE
6 OF THOSE SAFE ZONES TO ONE THOUSAND FEET, TO INCREASE THE
7 PENALTIES FOR CARRYING A DEADLY WEAPON ON EDUCATIONAL
8 PROPERTY, AND TO MAKE IT A CRIMINAL OFFENSE TO POSSESS OR
9 CARRY A GUN, RIFLE, OR PISTOL IN A PUBLIC PARK, IN ANY CHILD
10 CARE CENTER, OR ON ANY PLAYGROUND.
11

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** G.S. 90-95(e) reads as rewritten:

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

17 (1), (2) Repealed by Session Laws 1979, c. 760, s. 5.

18 (3) If any person commits a Class 1 misdemeanor under this Article and if
19 he has previously been convicted for one or more offenses under any
20 law of North Carolina or any law of the United States or any other
21 state, which offenses are punishable under any provision of this
22 Article, he shall be punished as a Class I felon. The prior conviction
23 used to raise the current offense to a Class I felony shall not be used to
24 calculate the prior record level.

25 (4) If any person commits a Class 2 misdemeanor, and if he has previously
26 been convicted for one or more offenses under any law of North
27 Carolina or any law of the United States or any other state, which

1 offenses are punishable under any provision of this Article, he shall be
2 guilty of a Class 1 misdemeanor. The prior conviction used to raise the
3 current offense to a Class 1 misdemeanor shall not be used to calculate
4 the prior conviction level.

5 (5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by
6 selling or delivering a controlled substance to a person under 16 years
7 of age but more than 13 years of age or a pregnant female shall be
8 punished as a Class D felon. Any person 18 years of age or over who
9 violates G.S. 90-95(a)(1) by selling or delivering a controlled
10 substance to a person who is 13 years of age or younger shall be
11 punished as a Class C felon. Mistake of age is not a defense to a
12 prosecution under this section. It shall not be a defense that the
13 defendant did not know that the recipient was pregnant.

14 (6) For the purpose of increasing punishment under G.S. 90-95(e)(3) and
15 (e)(4), previous convictions for offenses shall be counted by the
16 number of separate trials at which final convictions were obtained and
17 not by the number of charges at a single trial.

18 (7) If any person commits an offense under this Article for which the
19 prescribed punishment requires that any sentence of imprisonment be
20 suspended, and if he has previously been convicted for one or more
21 offenses under any law of North Carolina or any law of the United
22 States or any other state, which offenses are punishable under any
23 provision of this Article, he shall be guilty of a Class 2 misdemeanor.

24 (8) Any person 21 years of age or older who commits an offense under
25 G.S. 90-95(a)(1) on property used for a child care center, or for an
26 elementary or secondary school or within ~~300~~1,000 feet of the
27 boundary of real property used for a child care center, or for an
28 elementary or secondary school shall be punished as a Class E felon.
29 For purposes of this subdivision, the transfer of less than five grams of
30 marijuana for no remuneration shall not constitute a delivery in
31 violation of G.S. 90-95(a)(1). For purposes of this subdivision, a child
32 care center is as defined in G.S. 110-86(3)a., and that is licensed by the
33 Secretary of the Department of Health and Human Services.

34 (9) Any person who violates G.S. 90-95(a)(3) on the premises of a penal
35 institution or local confinement facility shall be guilty of a Class H
36 felony.

37 (10) Any person 21 years of age or older who commits an offense under
38 G.S. 90-95(a)(1) on property that is a ~~playground in a~~ public park or
39 within ~~300~~1,000 feet of the boundary of real property that is a
40 ~~playground in a~~ public park shall be punished as a Class E felon. For
41 purposes of this subdivision, the transfer of less than five grams of
42 marijuana for no remuneration shall not constitute a delivery in
43 violation of G.S. 90-95(a)(1). ~~For purposes of this subdivision the term~~
44 ~~"playground" means any outdoor facility (including any parking lot~~

1 appurtenant thereto) intended for recreation open to the public, and
2 with any portion thereof containing three or more separate apparatuses
3 intended for the recreation of children including, but not limited to,
4 sliding boards, swingsets, and teeterboards."

5 **SECTION 2.** G.S. 14-269.2 reads as rewritten:

6 "**§ 14-269.2. Weapons on campus or other educational property.**

7 (a) The following definitions apply to this section:

8 (1) Educational property. – Any school building or bus, school campus,
9 grounds, recreational area, athletic field, or other property owned,
10 used, or operated by any board of education or school board of
11 trustees, or directors for the administration of any school.

12 (1a) Employee. – A person employed by a local board of education or
13 school whether the person is an adult or a minor.

14 (1b) School. – A public or private school, community college, college, or
15 university.

16 (2) Student. – A person enrolled in a school or a person who has been
17 suspended or expelled within the last five years from a school, whether
18 the person is an adult or a minor.

19 (3) Switchblade knife. – A knife containing a blade that opens
20 automatically by the release of a spring or a similar contrivance.

21 (4) Weapon. – Any device enumerated in subsection (b), (b1), or (d) of
22 this section.

23 (b) It shall be a ~~Class I~~ Class H felony for any person to possess or carry, whether
24 openly or concealed, any gun, rifle, pistol, or other firearm of any kind on educational
25 property or to a curricular or extracurricular activity sponsored by a school. Unless the
26 conduct is covered under some other provision of law providing greater punishment,
27 any person who willfully discharges a firearm of any kind on educational property is
28 guilty of a Class F felony. However, this subsection does not apply to a BB gun, stun
29 gun, air rifle, or air pistol.

30 (b1) It shall be a ~~Class G~~ Class F felony for any person to possess or carry, whether
31 openly or concealed, any dynamite cartridge, bomb, grenade, mine, or powerful
32 explosive as defined in G.S. 14-284.1, on educational property or to a curricular or
33 extracurricular activity sponsored by a school. This subsection shall not apply to
34 fireworks.

35 (c) It shall be a ~~Class I~~ Class H felony for any person to cause, encourage, or aid a
36 minor who is less than 18 years old to possess or carry, whether openly or concealed,
37 any gun, rifle, pistol, or other firearm of any kind on educational property. However,
38 this subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.

39 (c1) It shall be a ~~Class G~~ Class F felony for any person to cause, encourage, or aid
40 a minor who is less than 18 years old to possess or carry, whether openly or concealed,
41 any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in
42 G.S. 14-284.1 on educational property. This subsection shall not apply to fireworks.

43 (d) It shall be a ~~Class I~~ Class A1 misdemeanor for any person to possess or carry,
44 whether openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife,

1 dirk, dagger, slingshot, leaded cane, switchblade knife, blackjack, metallic knuckles,
2 razors and razor blades (except solely for personal shaving), firework, or any
3 sharp-pointed or edged instrument except instructional supplies, unaltered nail files and
4 clips and tools used solely for preparation of food, instruction, and maintenance, on
5 educational property.

6 (e) It shall be a ~~Class I~~Class A1 misdemeanor for any person to cause,
7 encourage, or aid a minor who is less than 18 years old to possess or carry, whether
8 openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk,
9 dagger, slingshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors
10 and razor blades (except solely for personal shaving), firework, or any sharp-pointed or
11 edged instrument except instructional supplies, unaltered nail files and clips and tools
12 used solely for preparation of food, instruction, and maintenance, on educational
13 property.

14 (f) Notwithstanding subsection (b) of this section it shall be a ~~Class I~~Class A1
15 misdemeanor rather than a Class I felony for any person to possess or carry, whether
16 openly or concealed, any gun, rifle, pistol, or other firearm of any kind, on educational
17 property or to a curricular or extracurricular activity sponsored by a school if:

18 (1) The person is not a student attending school on the educational
19 property or an employee employed by the school working on the
20 educational property; and

21 (1a) The person is not a student attending a curricular or extracurricular
22 activity sponsored by the school at which the student is enrolled or an
23 employee attending a curricular or extracurricular activity sponsored
24 by the school at which the employee is employed; and

25 (2) Repealed by Session Laws 1999-211, s. 1, effective December 1, 1999,
26 and applicable to offenses committed on or after that date.

27 (3) The firearm is not loaded, is in a motor vehicle, and is in a locked
28 container or a locked firearm rack.

29 (4) Repealed by Session Laws 1999-211, s. 1, effective December 1, 1999,
30 and applicable to offenses committed on or after that date.

31 (g) This section shall not apply to:

32 (1) A weapon used solely for educational or school-sanctioned ceremonial
33 purposes, or used in a school-approved program conducted under the
34 supervision of an adult whose supervision has been approved by the
35 school authority;

36 (1a) A person exempted by the provisions of G.S. 14-269(b);

37 (2) Firefighters, emergency service personnel, North Carolina Forest
38 Service personnel, and any private police employed by an educational
39 institution, when acting in the discharge of their official duties;

40 (3) Home schools as defined in G.S. 115C-563(a); or

41 (4) Weapons used for hunting purposes on the Howell Woods Nature
42 Center property in Johnston County owned by Johnston Community
43 College when used with the written permission of Johnston
44 Community College or for hunting purposes on other educational

1 property when used with the written permission of the governing body
2 of the school that controls the educational property.

3 (h) No person shall be guilty of a criminal violation of this section with regard to
4 the possession or carrying of a weapon so long as both of the following apply:

5 (1) The person comes into possession of a weapon by taking or receiving
6 the weapon from another person or by finding the weapon.

7 (2) The person delivers the weapon, directly or indirectly, as soon as
8 practical to law enforcement authorities."

9 **SECTION 3.** Article 35 of Chapter 14 of the General Statutes is amended by
10 adding a new section to read:

11 "**§ 14-269.5. Possessing or carrying firearms in public parks, in child care centers,**
12 **or on playgrounds.**

13 (a) Definitions. – The following definitions apply in this section:

14 (1) Child care center. – A child care center as defined in G.S. 110-86(3)a.,
15 and that is licensed by the Secretary of the Department of Health and
16 Human Services.

17 (2) Playground. – Any outdoor facility (including any parking lot
18 appurtenant thereto) intended for recreation open to the public, and
19 with any portion thereof containing three or more separate apparatuses
20 intended for the recreation of children including, but not limited to,
21 sliding boards, swing sets, and teeterboards.

22 (b) Offense. – It is unlawful for any person to possess or carry, whether openly
23 or concealed, any gun, rifle, or pistol in any public park, in any child care center, or on
24 any playground.

25 (c) Exemptions. – This section shall not apply to the following:

26 (1) A person exempted by the provisions of G.S. 14-269(b).

27 (2) Firefighters, emergency service personnel, North Carolina Forest
28 Service personnel, and any private police or security guard employed
29 by the owner, lessee, or manager of the playground or child care
30 facility, when acting in the discharge of their official duties.

31 (d) Penalty. – Any person violating this section is guilty of a Class 1
32 misdemeanor."

33 **SECTION 4.** This act becomes effective December 1, 2007, and applies to
34 offenses committed on or after that date.
35