

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 267
Second Edition Engrossed 3/21/89
Third Edition Engrossed 4/28/89
Judiciary I Senate Committee Substitute Adopted 6/6/89

Short Title: Drug Violation Changes.

(Public)

Sponsors:

Referred to:

February 20, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT AN ADULT WHO USES, SOLICITS, OR HIRES A MINOR TO COMMIT A DRUG VIOLATION IS GUILTY OF A CLASS E FELONY AND IS STRICTLY LIABLE FOR THE MINOR'S DRUG ADDICTION AND TO INCREASE THE SENTENCE FOR THE ILLEGAL SALE OR DELIVERY OF DRUGS TO A MINOR OR A PREGNANT WOMAN.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 90 of the General Statutes is amended by adding a new section to read:

§ 90-95.4. Employing minor to commit a drug law violation.

(a) A person 18 years of age or over who uses, solicits, directs, hires, or employs a person under 18 years of age to commit a violation of G.S. 90-95 shall be punished as a Class E felon.

(b) Mistake of Age. Mistake of age is not a defense to a prosecution under this

(c) A person who is convicted under this section shall be strictly liable in any civil action brought for damages on behalf of a minor arising out of the minor's drug addiction which was contributed to, influenced, or induced by said person."

Sec 2. G.S. 90-95(e) reads as rewritten:

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

1 (1),(2) Repealed by Session Laws 1979, c. 760, s. 5.

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

8 (4) If any person commits an offense under this Article for which the
9 prescribed punishment includes imprisonment for not more than six
10 months, and if he has previously been convicted for one or more
11 offenses under any law of North Carolina or any law of the United
12 States or any other state, which offenses are punishable under any
13 provision of this Article, he shall be guilty of a misdemeanor and shall
14 be sentenced to a term of imprisonment of not more than two years or
15 fined not more than two thousand dollars (\$2,000), or both in the
16 discretion of the court;

17 (5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by
18 selling or delivering a controlled substance to a person under ~~16-18~~
19 years of age or a pregnant female shall be punished as a Class E ~~felon;~~
20 felon. It shall not be a defense that the defendant mistakenly believed
21 that the recipient of the controlled substance was 18 years of age or
22 older, even if the mistaken belief was reasonable. It shall not be a
23 defense that the defendant did not know that the recipient was
24 pregnant;

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

29 (7) If any person commits an offense under this Article for which the
30 prescribed punishment requires that any sentence of imprisonment be
31 suspended, and if he has previously been convicted for one or more
32 offenses under any law of North Carolina or any law of the United
33 States or any other state, which offenses are punishable under any
34 provision of this Article, he shall be guilty of a misdemeanor and shall
35 be sentenced to a term of imprisonment of not more than six months or
36 fined not more than five hundred dollars (\$500.00), or both in the
37 discretion of the court."

38 Sec. 3. This act shall become effective October 1, 1989, and shall apply to
39 offenses occurring on or after that date.