

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE BILL 8**

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

Sponsors: Senators Boseman; Cowell, Jenkins, Kinnaird, and Snow.

Referred to: Judiciary 1 (Civil).

February 12, 2007

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17 (1), (2) Repealed by Session Laws 1979, c. 760, s. 5.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  
28 offenses are punishable under any provision of this Article, he shall be  
29 guilty of a Class 1 misdemeanor. The prior conviction used to raise the

- 1 current offense to a Class 1 misdemeanor shall not be used to calculate  
2 the prior conviction level.
- 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 but more than 13 years of age or a pregnant female shall be  
6 punished as a Class D felon. Any person 18 years of age or over who  
7 violates G.S. 90-95(a)(1) by selling or delivering a controlled  
8 substance to a person who is 13 years of age or younger shall be  
9 punished as a Class C felon. Mistake of age is not a defense to a  
10 prosecution under this section. It shall not be a defense that the  
11 defendant did not know that the recipient was pregnant.
- 12 (6) For the purpose of increasing punishment under G.S. 90-95(e)(3) and  
13 (e)(4), previous convictions for offenses shall be counted by the  
14 number of separate trials at which final convictions were obtained and  
15 not by the number of charges at a single trial.
- 16 (7) If any person commits an offense under this Article for which the  
17 prescribed punishment requires that any sentence of imprisonment be  
18 suspended, and if he has previously been convicted for one or more  
19 offenses under any law of North Carolina or any law of the United  
20 States or any other state, which offenses are punishable under any  
21 provision of this Article, he shall be guilty of a Class 2 misdemeanor.
- 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 a child care center, or for an  
24 elementary or secondary school or within 3001,000 feet of the  
25 boundary of real property used for a child care center, or for an  
26 elementary or secondary school shall be punished as a Class E felon.  
27 For purposes of this subdivision, the transfer of less than five grams of  
28 marijuana for no remuneration shall not constitute a delivery in  
29 violation of G.S. 90-95(a)(1). For purposes of this subdivision, a child  
30 care center is as defined in G.S. 110-86(3)a., and that is licensed by the  
31 Secretary of the Department of Health and Human Services.
- 32 (9) Any person who violates G.S. 90-95(a)(3) on the premises of a penal  
33 institution or local confinement facility shall be guilty of a Class H  
34 felony.
- 35 (10) Any person 21 years of age or older who commits an offense under  
36 G.S. 90-95(a)(1) on property that is a ~~playground in a~~ public park or  
37 within 3001,000 feet of the boundary of real property that is a  
38 ~~playground in a~~ public park shall be punished as a Class E felon. For  
39 purposes of this subdivision, the transfer of less than five grams of  
40 marijuana for no remuneration shall not constitute a delivery in  
41 violation of G.S. 90-95(a)(1). ~~For purposes of this subdivision the term~~  
42 ~~"playground" means any outdoor facility (including any parking lot~~  
43 ~~appurtenant thereto) intended for recreation open to the public, and~~  
44 ~~with any portion thereof containing three or more separate apparatuses~~

1 intended for the recreation of children including, but not limited to,  
2 sliding boards, swingsets, and teeterboards."

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

4 **"§ 14-269.2. Weapons on campus or other educational property.**

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

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

10 (1a) Employee. – A person employed by a local board of education or  
11 school whether the person is an adult or a minor.

12 (1b) School. – A public or private school, community college, college, or  
13 university.

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

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

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

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

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

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

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

41 (d) It shall be a ~~Class I~~ Class A1 misdemeanor for any person to possess or carry,  
42 whether openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife,  
43 dirk, dagger, slingshot, leaded cane, switchblade knife, blackjack, metallic knuckles,  
44 razors and razor blades (except solely for personal shaving), firework, or any

1 sharp-pointed or edged instrument except instructional supplies, unaltered nail files and  
2 clips and tools used solely for preparation of food, instruction, and maintenance, on  
3 educational property.

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

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

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

19 (1a) The person is not a student attending a curricular or extracurricular  
20 activity sponsored by the school at which the student is enrolled or an  
21 employee attending a curricular or extracurricular activity sponsored  
22 by the school at which the employee is employed; and

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

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

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

29 (g) This section shall not apply to:

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

34 (1a) A person exempted by the provisions of G.S. 14-269(b);

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

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

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

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

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

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

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

9 **"§ 14-269.5. Possessing or carrying firearms in public parks, in child care centers,  
10 or on playgrounds.**

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

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

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

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

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

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

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

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

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