

State of Arkansas

77th General Assembly

A Bill

HOUSE BILL

Third Extraordinary Session, 1989

CALL ITEM 101035

By: Representatives Lipton, Capps, Newman, Pollan,
Glover, Forgey, Arrington, Hutchinson, and Fuller

For An Act To Be Entitled

"AN ACT TO AMEND TITLE 5, CHAPTER 64, SUBCHAPTER 4 OF THE ARKANSAS CODE OF 1987, THE UNIFORM CONTROLLED SUBSTANCES ACT TO PROVIDE FOR ENHANCED PENALTIES FOR DISTRIBUTION OF DRUGS TO MINORS AGE 12 AND UNDER; TO INCREASE THE PENALTIES FOR VIOLATION OF THE DRUG-FREE SCHOOL ZONE LAW; TO PROHIBIT THE USE OF MINORS IN DRUG OPERATIONS; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 5-64-406 is hereby amended to read as follows:

"5-64-406. Distribution to minors.

(a) (1) Any person eighteen (18) years of age or over who violates 5-64-401(a) by distributing a controlled substance listed in Schedules I or II which is a narcotic drug to a person from thirteen (13) to eighteen (18) years of age is punishable by the fine authorized by 5-64-401(a)(1)(i), by a term of imprisonment of up to twice that authorized by 5-64-401(a)(1)(i), or by both.

(2) Any person eighteen (18) years of age or over who violates 5-64-401 by distributing any other controlled substance listed in Schedules I, II, III, IV, V, and VI to a person from thirteen (13) to eighteen (18) years of age is punishable by the fine authorized by 5-64-401(a)(1)(ii), (iii), or (iv), by a term of imprisonment up to twice that authorized by 5-64-401(a)(1)(ii), (iii), or (iv), or both.

(b) (1) Any person eighteen (18) years of age or over who violates 5-64-401(a) by distributing a controlled substance listed in Schedules I or II which is a narcotic drug to a person twelve (12) years of age or younger is punishable by a fine twice the amount authorized by 5-64-401(a)(1)(i), by a term of imprisonment of up to three times that authorized by 5-64-401(a)(1)(i), or by both.

(2) Any person eighteen (18) years of age or over who violates §5-64-401 by distributing any other controlled substance listed in Schedules I, II, III, IV, V, and VI to a person twelve (12) years of age or younger is punishable by a fine twice the amount authorized by §5-64-401 (a) (1) (ii), (iii), or (iv), by a term of imprisonment up to three times that authorized by §5-64-401(a) (1) (ii), (iii), or (iv), or both.

(c) (1) Any person convicted under the provisions of this section shall not be eligible to have their sentence probated under Ark. Code §5-64-407 or any other law applicable to first or youthful offenders.

(2) Any person charged under subsection (b) above shall not be eligible for a reduced charge or, upon conviction, to early release on parole."

SECTION 2. Arkansas Code 5-64-410, the same being Section 1 of Act 612 of 1989, is hereby amended to read as follows:

"5-64-410. Drug-Free School Zone.

Any person who commits an offense under Section 5-64-401(a) of this chapter by selling, delivering, dispensing, transporting, administering or distributing a controlled substance within one thousand (1,000) feet of the real property of a public or private elementary or secondary school, public vocational school, or private or public college or university, shall have any term of imprisonment imposed for the violation of Section 5-64-401(a) enhanced by a term of ten (10) years and a fine of not less than ten thousand dollars (\$10,000). The enhanced portion of the sentence shall be consecutive to any other sentence imposed. Any person convicted under this section shall not be eligible for early release on parole for the enhanced portion of the sentence.

SECTION 3. Arkansas Code, Title 5, Chapter 64, Subchapter 4 is hereby amended by adding the following new section:

"5-64-411. Employment or Use of Minors.

(a) It is unlawful for any person to knowingly or intentionally solicit, induce, encourage, entice, coerce, persuade, intimidate, employ, hire or use a person under 18 years of age to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any controlled substance or to assist any person in avoiding detection or apprehension for a violation of the Uniform Controlled Substances Act, Title 5, Chapter 64 of the Arkansas Code of 1987.

(b) Any person who violates subsection (a) utilizing a controlled substance listed in Schedules I through VI is punishable by a term of imprisonment, or fine, or both, of three times the amount authorized by §5-64-401(a).

(c) Any person charged under this section shall not be eligible for a reduced charge or, upon conviction, to early release on parole.

(d) It is not a defense to a violation of subsection (a) that the accused did not know the age of an individual employed or used."

SECTION 4. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.