

House Bill 281

By: Representatives Benfield of the 85<sup>th</sup>, Manning of the 32<sup>nd</sup>, Talton of the 145<sup>th</sup>, Chambers of the 81<sup>st</sup>, Oliver of the 83<sup>rd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to the regulation of controlled substances, so as to create a drug-free zone for child  
3 care learning centers; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 style="text-align:center">**SECTION 1.**

6 Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to the  
7 regulation of controlled substances, is amended by adding a new paragraph to Code Section  
8 16-13-21, relating to definitions regarding controlled substances, to read as follows:

9 "(3.1) 'Child care learning center' shall have the same meaning as in Code Section  
10 20-1A-2."

11 style="text-align:center">**SECTION 2.**

12 Said article is further amended by revising Code Section 16-13-32.4, relating to controlled  
13 substances in, on, or near schools, as follows:

14 "16-13-32.4.

15 (a) It shall be unlawful for any person to manufacture, distribute, dispense, or possess with  
16 intent to distribute a controlled substance or marijuana in, on, or within 1,000 feet of any  
17 real property owned by or leased to any public or private elementary school, secondary  
18 school, child care learning center, or school board used for elementary or secondary  
19 education.

20 (b) Any person who violates or conspires to violate subsection (a) of this Code section  
21 shall be guilty of a felony and upon conviction shall receive the following punishment:

22 (1) Upon a first conviction, imprisonment for not more than 20 years or a fine of not  
23 more than \$20,000.00, or both; or

24 (2) Upon a second or subsequent conviction, imprisonment for not less than five years  
25 nor more than 40 years or a fine of not more than \$40,000.00, or both. It shall be

1 mandatory for the court to impose a minimum sentence of five years which may not be  
2 suspended unless otherwise provided by law.

3 A sentence imposed under this Code section shall be served consecutively to any other  
4 sentence imposed.

5 (c) A conviction arising under this Code section shall not merge with a conviction arising  
6 under any other provision of this article.

7 (d) It shall be no defense to a prosecution for a violation of this Code section that:

8 (1) School was or was not in session at the time of the offense;

9 (2) The real property was being used for other purposes besides school purposes at the  
10 time of the offense; or

11 (3) The offense took place on a school vehicle.

12 (e) In a prosecution under this Code section, a map produced or reproduced by any  
13 municipal or county agency or department for the purpose of depicting the location and  
14 boundaries of the area on or within 1,000 feet of the real property of a school board or a  
15 private or public elementary or secondary school or child care learning center that is used  
16 for ~~school~~ educational purposes, or a true copy of the map, shall, if certified as a true copy  
17 by the custodian of the record, be admissible and shall constitute prima-facie evidence of  
18 the location and boundaries of the area, if the governing body of the municipality or county  
19 has approved the map as an official record of the location and boundaries of the area. A  
20 map approved under this Code section may be revised from time to time by the governing  
21 body of the municipality or county. The original of every map approved or revised under  
22 this subsection or a true copy of such original map shall be filed with the municipality or  
23 county and shall be maintained as an official record of the municipality or county. This  
24 subsection shall not preclude the prosecution from introducing or relying upon any other  
25 evidence or testimony to establish any element of this offense. This subsection shall not  
26 preclude the use or admissibility of a map or diagram other than the one which has been  
27 approved by the municipality or county.

28 (f) A county school board may adopt regulations requiring the posting of signs designating  
29 the areas within 1,000 feet of school boards, ~~and~~ private or public elementary and  
30 secondary schools and child care learning centers as 'Drug-free School Zones.'

31 (g) It is an affirmative defense to prosecution for a violation of this Code section that the  
32 prohibited conduct took place entirely within a private residence, that no person 17 years  
33 of age or younger was present in such private residence at any time during the commission  
34 of the offense, and that the prohibited conduct was not carried on for purposes of financial  
35 gain. Nothing in this subsection shall be construed to establish an affirmative defense with  
36 respect to any offense under this chapter other than the offense provided for in subsection  
37 (a) of this Code section."

- 1 **SECTION 3.**
- 2 All laws and parts of laws in conflict with this Act are repealed.