

HOUSE BILL 399

By Haynes

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 11, Part 2; Title 41, Chapter 1, Part 5; Title 40, Chapter 5; and Title 39, Chapter 17, Part 4, relative to offenses involving controlled substances in the vicinity of certain health facilities.

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

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 11, Part 2, is amended by adding the following as a new section thereto:

68-11-2\_\_.

(a) It is the intent of this section to create drug-free zones for the purpose of providing vulnerable persons in this state an environment in which they can obtain treatment and achieve sobriety without the distractions and dangers that are incident to the temptation and occurrence of illegal drug activities. The enhanced and mandatory minimum sentences required by this section for drug offenses occurring in a drug-free zone are necessary to serve as a deterrent to such unacceptable conduct.

(b)

(1) A violation of § 39-17-417, or a conspiracy to violate the section, that occurs on the grounds or facilities of any hospital, alcohol and drug treatment center, or non-residential opioid treatment program facility or within one thousand feet (1,000') of the real property that comprises a hospital, alcohol and drug treatment center, or non-residential opioid treatment program facility shall be punished one (1) classification higher than is provided in § 39-17-417(b)-(i) for such

violation. The provisions of this subsection (b) shall apply only during such times as the hospital, alcohol and drug treatment center, or non-residential opioid treatment program facility is in operation, or during a period of ninety (90) minutes before the opening hour of the hospital, alcohol and drug treatment center, or non-residential opioid treatment program facility school or a period of ninety (90) minutes after the closing hour of such facilities.

(2) In addition to any other penalty imposed by this section, and notwithstanding any other provision of the law to the contrary, a person convicted of violating this subsection (b) shall also be subject to the following:

(A) Upon conviction of a Class E felony, a fine of not more than ten thousand dollars (\$10,000);

(B) Upon conviction of a Class D felony, a fine of not more than twenty thousand dollars (\$20,000);

(C) Upon conviction of a Class C felony, a fine of not more than forty thousand dollars (\$40,000);

(D) Upon conviction of a Class B felony, a fine of not more than sixty thousand dollars (\$60,000); and

(E) Upon conviction of a Class A felony, a fine of not more than one hundred thousand dollars (\$100,000).

(c) Notwithstanding any other provision of law or the sentence imposed by the court to the contrary, a defendant sentenced for a violation of subsection (b) shall be required to serve at least the minimum sentence for the defendant's appropriate range of sentence. Any sentence reduction credits the defendant may be eligible for or earn shall not operate to permit or allow the release of the defendant prior to full service of the minimum sentence.

(d) Notwithstanding the sentence imposed by the court, the provisions of title 40, chapter 35, part 5, relative to release eligibility status and parole, shall not apply to or authorize the release of a defendant sentenced for a violation of subsection (b) prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

(e) Nothing in title 41, chapter 1, part 5, shall give either the governor or the board of parole the authority to release or cause the release of a defendant sentenced for a violation of subsection (b) prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

(f) Nothing in this section shall be construed as prohibiting the judge from sentencing a defendant who violated subsection (b) to any authorized term of incarceration in excess of the minimum sentence for the defendant's appropriate range of sentence.

(g) The sentence of a defendant who, as the result of a single act, violates both subsection (b) and § 39-17-417(k), may only be enhanced one (1) time under those sections for each act. The state must elect under which section it intends to seek enhancement of the defendant's sentence and shall provide notice of the election pursuant to § 40-35-202.

SECTION 2. This act shall take effect July 1, 2013, the public welfare requiring it, and shall apply to offenses occurring on or after such date.