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CRIMES AND OFFENSES

Controlled Substances: Provide for the Creation of Drug-Free Commercial Zones

CODE SECTION: O.C.G.A. § 16-13-32.6 (new)
BILL NUMBER: HB 1654
ACT NUMBER: 936
GEORGIA LAWS: 1996 Ga. Laws 1049
SUMMARY: The Act provides for the creation of drug-free commercial zones. It adds to the penalties for illegal manufacture, distribution, or possession with intent to distribute controlled substances or marijuana within these zones, including possible probationary ban from entering the zone after conviction. The Act requires local governments to file annual reports regarding drug-related crime within designated zones.
EFFECTIVE DATE: July 1, 1996

History

The Act grew out of a drug-related shooting in Representative Mike Polak's district, the Little Five Points area of Atlanta.¹ Local business leaders called a meeting with City officials and Representative Polak to discuss options.² A working hypothesis formed: there is greater drug activity in commercial areas than in residential.³ At the meeting, the group asked the City to complete a study on drug-related incidents to test this hypothesis.⁴ The resulting study showed that drug-related incidents occur with greater frequency in commercial rather than in residential areas.⁵ The goal of the legislation was to disrupt the drug distribution network by removing dealers and preventing them from re-entering a drug-free commercial area.⁶ The Act is similar to earlier legislation that created drug-free school zones and drug-free housing projects and parks.⁷

1. Telephone Interview with Rep. Mike Polak, House District No. 67 (May 10, 1996) [hereinafter Polak Interview].

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. See 1992 Ga. Laws 2043, § 1, at 2043-44 (codified at O.C.G.A. § 16-13-32.5 (1996)) (creating drug-free parks and housing projects); 1990 Ga. Laws 1097, § 1, at

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The Act creates harsher penalties for persons convicted of drug-related crimes within a drug-free commercial zone than for those convicted outside commercial zones.⁸ Because commercial zones are areas of high foot traffic, permitting exposure to the maximum number of people, commercial areas are places most likely to appeal to drug dealers.⁹ The Act is designed to disrupt the drug distribution network by removing dealers from their best locations.¹⁰ Further, the Act adds a provision that would prevent those convicted under this law from re-entering a drug-free commercial zone for up to twenty-four months as a condition of probation.¹¹ Police departments, local citizens, and local businesses can request through their local governing authority that any area be designated a drug-free commercial zone, provided the area is officially zoned commercial.¹² Once so designated, the local governing authority is required to post "prominent and conspicuous signs on the boundaries of and throughout" the zone.¹³

The first version of the bill included a mandatory minimum sentence of five years for a second or subsequent conviction.¹⁴ The drug-free school zone and park zone laws both carry mandatory sentence provisions.¹⁵ However, the House Judiciary Committee removed the mandatory sentence provision from this bill.¹⁶ They did so because the drug and park laws were resulting in plea bargains that reduced charges from dealing to possession.¹⁷ The primary focus of this bill was to disrupt distribution and to get dealers out of certain areas.¹⁸ To accomplish this end, violators needed to be charged as dealers, and plea bargaining needed to be discouraged.¹⁹

The House Judiciary Committee added a requirement for the municipality to file reports of drug-related crimes in its designated drug-free commercial zones, and to provide that drug-free commercial zones only last for five years, subject to redesignation.²⁰ The five-year

1098 (codified at O.C.G.A. § 16-13-32.4 (1996)) (creating drug-free school zones).

8. O.C.G.A. § 16-13-32.6(b) (1996).

9. Polak Interview, *supra* note 1.

10. *Id.*

11. O.C.G.A. § 16-13-32.6(b)(3) (1996).

12. *Id.* § 16-13-32.6(d); Polak Interview, *supra* note 1.

13. O.C.G.A. § 16-13-32.6(d) (1996).

14. *See* HB 1654, as introduced, 1996 Ga. Gen. Assem.

15. 1990 Ga. Laws 1097, § 1, at 1098 (codified at O.C.G.A. § 16-13-32.4(b)(2) (1996)); 1992 Ga. Laws 2043, § 1, at 2044 (codified at O.C.G.A. § 16-13-32.5(c)(2) (1996)).

16. *See* HB 1654 (HCS), 1996 Ga. Gen. Assem.

17. Polak Interview, *supra* note 1.

18. *Id.*

19. *Id.*

20. *Compare* HB 1654, as introduced, 1996 Ga. Gen. Assem. *with* HB 1654 (HCS),

limit and the requirement to compile data will force the local government to evaluate the program to see if it actually works.²¹ Further, statistical studies will force governments to focus their attention where it is needed the most.²²

The House Judiciary Committee also provided that a drug-free commercial zone could extend into a residential area for a radius of one-half mile.²³ The committee substitute recognized the potential spillover from a commercial area into nearby neighborhoods, and assuaged fears that pushing dealers out of commercial areas would push them into residential areas.²⁴ Finally, a floor amendment in the House added references to county governments, so that either a municipal government or a county government can create drug-free commercial zones.²⁵ This provision was included at the request of some counties that have high traffic commercial areas but are not incorporated into municipalities.²⁶

C. Shawn Jones

1996 Ga. Gen Assem. Reports are to be filed with the Department of Community Affairs. O.C.G.A. § 16-13-32.6(d) (1996).

21. Polak Interview, *supra* note 1.

22. *Id.* For example, the initial study requested of the City revealed that Little Five Points, site of the incident that brought about this legislation, is not an area in which there is a high rate of drug-related incidents. *Id.* The study revealed only thirty-two incidents in a one-year period. *Id.* But the study did turn up one area in East Atlanta where there were 346 drug-related incidents in the same one-year period. *Id.* Thus, the City learned where to focus its limited resources. *Id.*

23. O.C.G.A. § 16-13-32.6(d) (1996); HB 1654 (HCS), 1996 Ga. Gen Assem.

24. Polak Interview, *supra* note 1.

25. O.C.G.A. § 16-13-32.6(d) (1996); HB 1654 (HCSFA), 1996 Ga. Gen Assem.

26. Polak Interview, *supra* note 1.