

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2795 Session of  
2004

INTRODUCED BY D. EVANS, O'BRIEN, MYERS, WILLIAMS, J. TAYLOR,  
BEBKO-JONES, GEORGE, O'NEILL, THOMAS, BARD, GOODMAN, MELIO,  
BROWNE, CURRY, FRANKEL, CRAHALLA AND PAYNE, JULY 3, 2004

REFERRED TO COMMITTEE ON JUDICIARY, JULY 3, 2004

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, providing for serious drug trafficking  
3 and violent repeat offenders not to possess, use,  
4 manufacture, control, sell or transfer firearms.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Title 18 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a section to read:

9 § 6105.2. Serious drug trafficking or violent repeat offenders  
10 not to possess, use, manufacture, control, sell or  
11 transfer firearms.

12 (a) Offense defined.--

13 (1) A person who has two prior convictions for  
14 qualifying criminal offenses arising from separate criminal  
15 transactions commits a felony of the second degree if the  
16 person possesses, uses, controls, sells, transfers or  
17 manufactures a firearm in this Commonwealth.

18 (2) A person who has three or more prior convictions for

1 qualifying criminal offenses arising from separate criminal  
2 transactions commits a felony of the first degree if the  
3 person possesses, uses, controls, sells, transfers or  
4 manufactures a firearm in this Commonwealth.

5 (b) Mandatory minimum sentence.--A person convicted under  
6 subsection (a)(1) shall be sentenced to a minimum term of at  
7 least five years total confinement. A person convicted under  
8 subsection (a)(2) shall be sentenced to a minimum term of at  
9 least ten years total confinement.

10 (c) Notice.--Reasonable notice of the Commonwealth's  
11 intention to proceed under subsection (b) shall be provided to  
12 the defendant before sentencing.

13 (d) Authority of court in sentencing.--There shall be no  
14 authority in any court to impose on an offender to which this  
15 section is applicable a lesser sentence than provided for in  
16 this section or to place the offender on probation, parole, work  
17 release or prerelease or to suspend sentence. Nothing in this  
18 section shall prevent the sentencing court from imposing a  
19 sentence greater than provided in this section. Sentencing  
20 guidelines promulgated by the Pennsylvania Commission on  
21 Sentencing shall not supersede the mandatory sentences provided  
22 in this section.

23 (e) Appeal by Commonwealth.--If a sentencing court refuses  
24 to apply the sentencing provisions of subsection (b) where  
25 applicable, the Commonwealth shall have the right to appellate  
26 review of the action of the sentencing court. The appellate  
27 court shall vacate the sentence and remand the case to the  
28 sentencing court for imposition of a sentence in accordance with  
29 subsection (b) if it finds that the sentence was imposed in  
30 violation of subsection (b).

1     (f) Definitions.--As used in this section, the following  
2     words and phrases shall have the meanings given to them in this  
3     subsection:

4     "Firearm." Any weapons as set forth in section 6105(i)  
5     (relating to persons not to possess, use, manufacture, control,  
6     sell or transfer firearms).

7     "Prior conviction." A plea of guilty, a plea of nolo  
8     contendere, a finding of guilt by a court or an adjudication of  
9     delinquency, entered before the commission of the current  
10    offense under subsection (a), whether or not sentence has been  
11    imposed or disposition ordered for the prior offense.

12    "Qualifying criminal offense." A serious crime of violence  
13    or serious drug trafficking offense.

14    "Serious crime of violence." Any offense set forth in 42  
15    Pa.C.S. § 9714(g) (relating to sentences for second and  
16    subsequent offenses).

17    "Serious drug trafficking offense." Any drug trafficking  
18    offense subject to the provisions of section 6314 (relating to  
19    sentencing and penalties for trafficking drugs to minors) or  
20    7508 (relating to drug trafficking and penalties), or an  
21    equivalent crime in another jurisdiction.

22    Section 2. This act shall take effect in 60 days.