

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 710 Session of 2013

INTRODUCED BY BAKER, CORBIN, DIGIROLAMO, MICOZZIE, STERN,
PICKETT, SWANGER, MILLARD, COHEN, BOBACK, MILLER, V. BROWN,
KORTZ, GINGRICH, HESS, MOUL, GROVE, MURT, FABRIZIO AND
DENLINGER, FEBRUARY 13, 2013

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 13, 2013

AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled
2 "An act relating to the manufacture, sale and possession of
3 controlled substances, other drugs, devices and cosmetics;
4 conferring powers on the courts and the secretary and
5 Department of Health, and a newly created Pennsylvania Drug,
6 Device and Cosmetic Board; establishing schedules of
7 controlled substances; providing penalties; requiring
8 registration of persons engaged in the drug trade and for the
9 revocation or suspension of certain licenses and
10 registrations; and repealing an act," further providing for
11 liquefied ammonia gas, precursors and chemicals and for
12 promulgation of regulations.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 13.1 of the act of April 14, 1972
16 (P.L.233, No.64), known as The Controlled Substance, Drug,
17 Device and Cosmetic Act, amended April 29, 2010 (P.L.182,
18 No.21), is amended to read:

19 Section 13.1. Liquefied Ammonia Gas; Precursors and
20 Chemicals.--(a) The following acts are prohibited:

- 21 (1) Possessing or transporting liquefied ammonia gas:
22 (i) for any purpose other than legitimate agricultural or

1 industrial use; or

2 (ii) in a container not approved by the Department of
3 Agriculture or the Department of Transportation or both.

4 (2) Possessing or transporting liquefied ammonia gas with
5 intent to unlawfully manufacture a controlled substance.

6 (3) Possessing [red phosphorous, hypophosphoric acid,
7 ammonium sulfate, phosphorous, iodine, hydriodic acid,
8 ephedrine, pseudoephedrine, lithium, sodium, potassium,
9 sassafras oil, safrole oil or other oil containing safrole or
10 equivalent, whether in powder or liquid form,]
11 phenylpropanolamine, phenyl acetone, methylamine, ammonium
12 sulfate, ammonium nitrate or phenyl acetic acid or a precursor
13 substance with intent to unlawfully manufacture a controlled
14 substance.

15 (4) Possessing the esters, salts, optical isomers or salts
16 of optical isomers of any of the substances under clause (3)
17 with intent to manufacture a controlled substance.

18 (b) A person who violates subsection (a)(1) commits a
19 misdemeanor and upon conviction shall be sentenced to
20 imprisonment not exceeding five years and to pay a fine not
21 exceeding ten thousand dollars (\$10,000).

22 (c) A person who violates subsection (a)(2) or (3) commits a
23 felony and upon conviction shall be sentenced to imprisonment
24 not exceeding seven years and to pay a fine not exceeding
25 fifteen thousand dollars (\$15,000).

26 (d) As used in this section, the term "precursor substance"
27 means:

28 (1) red phosphorous, hypophosphoric acid, ammonium sulfate,
29 phosphorous, iodine, hydriodic acid or ephedrine,
30 pseudoephedrine, phenylpropanolamine or any of their salts or

1 optical isomers;

2 (2) salts of optical isomers or lithium, sodium, potassium,
3 sassafras oil or safrole oil or other oil containing safrole or
4 equivalent, whether in powder or liquid form; and

5 (3) any chemical in a regulation under section 35(b).

6 Section 2. Section 35 of the act is amended to read:

7 Section 35. Promulgation of Regulations.--(a) The secretary
8 shall have the authority to promulgate in accordance with the
9 provisions of this section and of the act of July 31, 1968

10 (P.L.769, No. 240), known as the "Commonwealth Documents Law"
11 any regulations hereinbefore referred to in this act and such
12 other regulations with the consent of the board regarding the
13 possession, distribution, sale, purchase or manufacture of
14 controlled substances, other drugs or devices or cosmetics as
15 may be necessary to aid in the enforcement of this act.

16 (b) The following apply to a regulation adding a chemical to
17 the definition of "precursor substance" in section 13.1(d):

18 (1) The secretary may promulgate the regulation:

19 (i) as part of the administration of this act; or

20 (ii) in response to a petition of an interested party.

21 (2) In determining whether to add a chemical, the secretary
22 shall consider all of the following:

23 (i) Whether the chemical is already a controlled substance.

24 (ii) The availability of the chemical for potential illegal
25 diversion.

26 (iii) The historical, actual or potential use of the
27 chemical in the illegal production of a controlled substance,
28 including the scope, duration and significance of use.

29 (iv) The nature and extent of the legitimate uses of the
30 chemical.

1 (v) The clandestine and legitimate importation, manufacture
2 or distribution of the chemical.

3 (vi) Any other factors relevant to and consistent with
4 public health and safety.

5 (3) Promulgation of the regulation is exempt from the act of
6 June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review
7 Act."

8 Section 3. This act shall take effect in 60 days.