
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1750 Session of
1993

INTRODUCED BY ROEBUCK, PRESTON, LAUB, STABACK, MELIO, KING,
TRELLO, DeLUCA, FLICK, PISTELLA AND HALUSKA, JUNE 9, 1993

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 9, 1993

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for mandatory
3 sentencing for convictions for certain drug offenses.

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

6 Section 1. Section 6314 of Title 18 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 6314. Sentencing and penalties for trafficking drugs to
9 minors.

10 (a) General rule.--A person [over] 18 years of age or older
11 who is convicted in any court of this Commonwealth of a
12 violation of section 13(a)(14) or (30) of the act of April 14,
13 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,
14 Device and Cosmetic Act, shall, if the delivery or possession
15 with intent to deliver of the controlled substance was to a
16 minor, be sentenced to a minimum sentence of at least one year
17 total confinement, notwithstanding any other provision of this
18 title or other statute to the contrary.

(b) Additional penalties.--In addition to the mandatory minimum sentence set forth in subsection (a), the person shall be sentenced to an additional minimum sentence of at least two years total confinement, notwithstanding any other provision of this title or other statute to the contrary, if the person did any of the following:

(1) Committed the offense with the intent to promote the habitual use of the controlled substance.

(2) Intended to engage the minor in the trafficking, transportation, delivery, manufacturing, sale or conveyance.

[(3) Committed the offense within 1,000 feet of the real property on which is located a public, private or parochial school or a college or university.]

(b.1) Trafficking drugs in vicinity of schools.--A person 18 years of age or older who is convicted in a court of this Commonwealth of violating section 13(a)(14) or (30) of The Controlled Substance, Drug, Device and Cosmetic Act shall, if the offense was committed within 1,000 feet of the real property on which is located a public, private or parochial school or a college or university or a licensed child-care facility, be sentenced to a minimum sentence of at least three years' total confinement, notwithstanding any other provision of this title or other statute to the contrary.

(c) Proof at sentencing.--The provisions of this section shall not be an element of the crime. Notice of the applicability of this section to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing.

1 The court shall consider evidence presented at trial, shall
2 afford the Commonwealth and the defendant an opportunity to
3 present necessary additional evidence, and shall determine, by a
4 preponderance of the evidence, if this section is applicable.

5 (d) Authority of court in sentencing.--There shall be no
6 authority for a court to impose on a defendant to which this
7 section is applicable a lesser sentence than provided for in
8 [subsection (a)] this section, to place the defendant on
9 probation or to suspend sentence. The court may, however, employ
10 a sentencing alternative such as work release, community service
11 or restitution. Nothing in this section shall prevent the
12 sentencing court from imposing a sentence greater than that
13 provided in this section. Sentencing guidelines promulgated by
14 the Pennsylvania Commission on Sentencing shall not supersede
15 the mandatory sentences provided in this section. Disposition
16 under section 17 or 18 of The Controlled Substance, Drug, Device
17 and Cosmetic Act shall not be available to a defendant to which
18 this section applies.

19 (e) Appeal by Commonwealth.--If a sentencing court refuses
20 to apply this section where applicable, the Commonwealth shall
21 have the right to appellate review of the action of the
22 sentencing court. The appellate court shall vacate the sentence
23 and remand the case to the sentencing court for imposition of a
24 sentence in accordance with this section if it finds that the
25 sentence was imposed in violation of this section.

26 (f) Forfeiture.--Assets against which a forfeiture petition
27 has been filed and is pending or against which the Commonwealth
28 has indicated an intention to file a forfeiture petition shall
29 not be subject to a fine under this section.

30 (g) Definition.--As used in this section, the term "minor"

1 means an individual under 18 years of age.

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