

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1038 Session of
1993

INTRODUCED BY MAYERNIK, PESCI, TOMLINSON, CESSAR, TRELLO, KING,
PISTELLA AND LAUGHLIN, MARCH 29, 1993

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 29, 1993

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for restrictions on the sale
3 of certain drugs, devices and cosmetics by itinerant vendors;
4 and imposing penalties.

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 § 7328. Itinerant vendor sales restrictions.

10 (a) Offense defined.--An itinerant vendor, except an
11 authorized manufacturer's representative possessing written
12 proof of the authorization at the vendor's place of retail
13 distribution, shall not sell or offer for sale any drug, device
14 or cosmetic as defined in the act of April 14, 1972 (P.L.233,
15 No.64), known as The Controlled Substance, Drug, Device and
16 Cosmetic Act, including any vitamin or over-the-counter
17 medication.

18 (b) Grading.--A person who violates subsection (a) commits a

1 misdemeanor of the third degree and shall, upon conviction, be
2 sentenced to pay a fine of \$100 for each item offered for sale
3 or sold.

4 (c) Seizure.--A law enforcement officer making an arrest for
5 a violation of subsection (a) shall have the power to seize any
6 item, the sale or offer for sale of which is prohibited under
7 subsection (a). When the seizure is made, the items seized shall
8 not be deemed absolutely forfeited, but shall be held until a
9 conviction of the person is first obtained for a violation of
10 subsection (a). In the case of a conviction, it shall be the
11 duty of the judge or district justice hearing the complaint to
12 make a determination relating to the forfeiture of the items
13 seized.

14 (d) Definition.--As used in this section, the term
15 "itinerant vendor" means a person, including, but not limited
16 to, a flea market vendor, acting as either a principal or agent,
17 who engages in a temporary or transient business in this
18 Commonwealth either in one locality or in traveling from place
19 to place selling goods, wares and merchandise and who, for the
20 purposes of carrying on that business, hires, rents, leases or
21 otherwise occupies any building, structure, vehicle or space for
22 the exhibition and sale of goods, wares and merchandise.

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