

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 313 Session of
2007

INTRODUCED BY LEACH, RUBLEY, BISHOP, BOYD, CARROLL, CASORIO,
CREIGHTON, EACHUS, FREEMAN, GERGELY, GINGRICH, GOODMAN,
GRUCELA, JOSEPHS, KORTZ, MELIO, READSHAW, ROEBUCK, SCAVELLO,
STABACK, WHEATLEY AND YOUNGBLOOD, FEBRUARY 7, 2007

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 7, 2007

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for an offense relating to
3 drug-free park zones.

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

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

8 § 7508.2. Drug-free park zones.

9 (a) General rule.--A person 18 years of age or older who is
10 convicted in any court of this Commonwealth of a violation of
11 section 13(a)(14) or (30) of the act of April 14, 1972 (P.L.233,
12 No.64), known as The Controlled Substance, Drug, Device and
13 Cosmetic Act, shall, if the delivery or possession with intent
14 to deliver of the controlled substance occurred within 1,000
15 feet of the real property on which is located a State, county,
16 city, borough, incorporated town or township park, be sentenced
17 to a minimum sentence of at least two years of total

1 confinement, notwithstanding any other provisions of this title,
2 The Controlled Substance, Drug, Device and Cosmetic Act or other
3 statute to the contrary. The maximum term of imprisonment shall
4 be four years for any offense:

5 (1) subject to this section; and

6 (2) for which The Controlled Substance, Drug, Device and
7 Cosmetic Act provides for a maximum term of imprisonment of
8 less than four years.

9 If the sentencing court finds that a violation of any other
10 statute would impose a larger minimum sentence, such sentencing
11 provision shall apply.

12 (b) Proof at sentencing.--The provisions of this section
13 shall not be an element of the crime. Notice of the
14 applicability of this section to the defendant shall not be
15 required prior to conviction, but reasonable notice of the
16 Commonwealth's intention to proceed under this section shall be
17 provided after conviction and before sentencing. The
18 applicability of this section shall be determined at sentencing.
19 The court shall consider evidence presented at trial, shall
20 afford the Commonwealth and the defendant an opportunity to
21 present necessary additional evidence and shall determine by a
22 preponderance of the evidence if this section is applicable.

23 (c) Authority of court in sentencing.--There shall be no
24 authority for a court to impose on a defendant to which this
25 section is applicable a lesser sentence than provided for in
26 subsection (a), to place the defendant on probation or to
27 suspend sentence. Nothing in this section shall prevent the
28 sentencing court from imposing a sentence greater than that
29 provided in this section. Sentencing guidelines promulgated by
30 the Pennsylvania Commission on Sentencing shall not supersede

1 the mandatory sentences provided in this section. Disposition
2 under section 17 or 18 of The Controlled Substance, Drug, Device
3 and Cosmetic Act shall not be available to a defendant to which
4 this section applies.

5 (d) Appeal by Commonwealth.--If a sentencing court refuses
6 to apply this section where applicable, the Commonwealth shall
7 have the right to appellate review of the action of the
8 sentencing court. The appellate court shall vacate the sentence
9 and remand the case to the sentencing court for imposition of a
10 sentence in accordance with this section if it finds that the
11 sentence was imposed in violation of this section.

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