

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1601 Session of 2015

INTRODUCED BY VEREB, MARSICO, BAKER, D. COSTA, GROVE, A. HARRIS, KAUFFMAN, MAHONEY, McNEILL, MILLARD, HARHART, McGINNIS, READSHAW AND JOZWIAK, OCTOBER 5, 2015

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 20, 2015

AN ACT

1 Amending ~~Title~~ TITLES 18 (CRIMES AND OFFENSES) AND 42 (Judiciary <--
2 and Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, IN OTHER OFFENSES, FURTHER PROVIDING FOR DRUG <--
4 TRAFFICKING SENTENCING AND PENALTIES; in sentencing
5 authority, further providing for sentences for offenses
6 committed on public transportation, for sentences for
7 offenses against elderly persons, for sentences for offenses
8 against infant persons and for sentences for offenses
9 committed while impersonating a law enforcement officer.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 ~~Section 1. Section 9713(c) and (e) Title 42 of the <--
13 Pennsylvania Consolidated Statutes are amended to read:~~

14 SECTION 1. SECTION 7508(A), (B) AND (D) OF TITLE 18 OF THE <--
15 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

16 § 7508. DRUG TRAFFICKING SENTENCING AND PENALTIES.

17 (A) GENERAL RULE.--NOTWITHSTANDING ANY OTHER PROVISIONS OF
18 THIS OR ANY OTHER ACT TO THE CONTRARY, THE FOLLOWING PROVISIONS
19 SHALL APPLY:

20 (1) A PERSON WHO IS CONVICTED OF VIOLATING SECTION 13(A)

1 (14), (30) OR (37) OF THE ACT OF APRIL 14, 1972 (P.L.233,
2 NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
3 COSMETIC ACT, WHERE THE CONTROLLED SUBSTANCE IS MARIJUANA
4 SHALL, UPON CONVICTION, BE SENTENCED TO A MANDATORY MINIMUM
5 TERM OF IMPRISONMENT AND A FINE AS SET FORTH IN THIS
6 SUBSECTION:

7 (I) WHEN THE AMOUNT OF MARIJUANA INVOLVED IS AT
8 LEAST TWO POUNDS, BUT LESS THAN TEN POUNDS, OR AT LEAST
9 TEN LIVE PLANTS BUT LESS THAN 21 LIVE PLANTS[; ONE YEAR
10 IN PRISON AND A FINE OF \$5,000 OR SUCH LARGER AMOUNT AS
11 IS SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN AND THE
12 PROCEEDS FROM THE ILLEGAL ACTIVITY; HOWEVER], AND IF AT
13 THE TIME OF SENTENCING THE DEFENDANT HAS BEEN CONVICTED
14 OF ANOTHER DRUG TRAFFICKING OFFENSE: [TWO YEARS] ONE YEAR
15 IN PRISON AND A FINE OF \$10,000 OR SUCH LARGER AMOUNT AS
16 IS SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN AND THE
17 PROCEEDS FROM THE ILLEGAL ACTIVITY;

18 (II) WHEN THE AMOUNT OF MARIJUANA INVOLVED IS AT
19 LEAST TEN POUNDS, BUT LESS THAN 50 POUNDS, OR AT LEAST 21
20 LIVE PLANTS BUT LESS THAN 51 LIVE PLANTS; [THREE YEARS]
21 ONE YEAR IN PRISON AND A FINE OF \$15,000 OR SUCH LARGER
22 AMOUNT AS IS SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN
23 AND THE PROCEEDS FROM THE ILLEGAL ACTIVITY; HOWEVER, IF
24 AT THE TIME OF SENTENCING THE DEFENDANT HAS BEEN
25 CONVICTED OF ANOTHER DRUG TRAFFICKING OFFENSE: [FOUR] TWO
26 YEARS IN PRISON AND A FINE OF \$30,000 OR SUCH LARGER
27 AMOUNT AS IS SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN
28 AND THE PROCEEDS FROM THE ILLEGAL ACTIVITY; AND

29 (III) WHEN THE AMOUNT OF MARIJUANA INVOLVED IS AT
30 LEAST 50 POUNDS, OR AT LEAST 51 LIVE PLANTS; [FIVE] THREE

1 YEARS IN PRISON AND A FINE OF \$50,000 OR SUCH LARGER
2 AMOUNT AS IS SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN
3 AND THE PROCEEDS FROM THE ILLEGAL ACTIVITY[.]; HOWEVER,
4 IF AT THE TIME OF SENTENCING THE DEFENDANT HAS BEEN
5 CONVICTED OF ANOTHER DRUG TRAFFICKING OFFENSE: FIVE YEARS
6 IN PRISON AND A FINE OF \$50,000 OR SUCH LARGER AMOUNT AS
7 IS SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN AND THE
8 PROCEEDS FROM THE ILLEGAL ACTIVITY.

9 (2) A PERSON WHO IS CONVICTED OF VIOLATING SECTION 13(A)
10 (14), (30) OR (37) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE
11 AND COSMETIC ACT WHERE THE CONTROLLED SUBSTANCE OR A MIXTURE
12 CONTAINING IT IS CLASSIFIED IN SCHEDULE I OR SCHEDULE II
13 UNDER SECTION 4 OF THAT ACT AND IS A NARCOTIC DRUG SHALL,
14 UPON CONVICTION, BE SENTENCED TO A MANDATORY MINIMUM TERM OF
15 IMPRISONMENT AND A FINE AS SET FORTH IN THIS SUBSECTION:

16 (I) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
17 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST 2.0
18 GRAMS AND LESS THAN TEN GRAMS; TWO YEARS IN PRISON AND A
19 FINE OF \$5,000 OR SUCH LARGER AMOUNT AS IS SUFFICIENT TO
20 EXHAUST THE ASSETS UTILIZED IN AND THE PROCEEDS FROM THE
21 ILLEGAL ACTIVITY; HOWEVER, IF AT THE TIME OF SENTENCING
22 THE DEFENDANT HAS BEEN CONVICTED OF ANOTHER DRUG
23 TRAFFICKING OFFENSE: THREE YEARS IN PRISON AND \$10,000 OR
24 SUCH LARGER AMOUNT AS IS SUFFICIENT TO EXHAUST THE ASSETS
25 UTILIZED IN AND THE PROCEEDS FROM THE ILLEGAL ACTIVITY;

26 (II) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
27 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST TEN
28 GRAMS AND LESS THAN 100 GRAMS; THREE YEARS IN PRISON AND
29 A FINE OF \$15,000 OR SUCH LARGER AMOUNT AS IS SUFFICIENT
30 TO EXHAUST THE ASSETS UTILIZED IN AND THE PROCEEDS FROM

1 THE ILLEGAL ACTIVITY; HOWEVER, IF AT THE TIME OF
2 SENTENCING THE DEFENDANT HAS BEEN CONVICTED OF ANOTHER
3 DRUG TRAFFICKING OFFENSE: FIVE YEARS IN PRISON AND
4 \$30,000 OR SUCH LARGER AMOUNT AS IS SUFFICIENT TO EXHAUST
5 THE ASSETS UTILIZED IN AND THE PROCEEDS FROM THE ILLEGAL
6 ACTIVITY; AND

7 (III) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
8 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST 100
9 GRAMS; FIVE YEARS IN PRISON AND A FINE OF \$25,000 OR SUCH
10 LARGER AMOUNT AS IS SUFFICIENT TO EXHAUST THE ASSETS
11 UTILIZED IN AND THE PROCEEDS FROM THE ILLEGAL ACTIVITY;
12 HOWEVER, IF AT THE TIME OF SENTENCING THE DEFENDANT HAS
13 BEEN CONVICTED OF ANOTHER DRUG TRAFFICKING OFFENSE: SEVEN
14 YEARS IN PRISON AND \$50,000 OR SUCH LARGER AMOUNT AS IS
15 SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN AND THE
16 PROCEEDS FROM THE ILLEGAL ACTIVITY.

17 (3) A PERSON WHO IS CONVICTED OF VIOLATING SECTION 13(A)
18 (14), (30) OR (37) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE
19 AND COSMETIC ACT WHERE THE CONTROLLED SUBSTANCE IS COCA
20 LEAVES OR IS ANY SALT, COMPOUND, DERIVATIVE OR PREPARATION OF
21 COCA LEAVES OR IS ANY SALT, COMPOUND, DERIVATIVE OR
22 PREPARATION WHICH IS CHEMICALLY EQUIVALENT OR IDENTICAL WITH
23 ANY OF THESE SUBSTANCES OR IS ANY MIXTURE CONTAINING ANY OF
24 THESE SUBSTANCES EXCEPT DECOCAINIZED COCA LEAVES OR EXTRACTS
25 OF COCA LEAVES WHICH (EXTRACTS) DO NOT CONTAIN COCAINE OR
26 ECGONINE SHALL, UPON CONVICTION, BE SENTENCED TO A MANDATORY
27 MINIMUM TERM OF IMPRISONMENT AND A FINE AS SET FORTH IN THIS
28 SUBSECTION:

29 (I) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
30 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST

1 [2.0] 5.0 GRAMS AND LESS THAN [TEN] 25 GRAMS; ONE YEAR IN
2 PRISON AND A FINE OF \$5,000 OR SUCH LARGER AMOUNT AS IS
3 SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN AND THE
4 PROCEEDS FROM THE ILLEGAL ACTIVITY; HOWEVER, IF AT THE
5 TIME OF SENTENCING THE DEFENDANT HAS BEEN CONVICTED OF
6 ANOTHER DRUG TRAFFICKING OFFENSE: [THREE] TWO YEARS IN
7 PRISON AND \$10,000 OR SUCH LARGER AMOUNT AS IS SUFFICIENT
8 TO EXHAUST THE ASSETS UTILIZED IN AND THE PROCEEDS FROM
9 THE ILLEGAL ACTIVITY;

10 (II) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
11 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST
12 [TEN] 25 GRAMS AND LESS THAN 100 GRAMS; [THREE] TWO YEARS
13 IN PRISON AND A FINE OF \$15,000 OR SUCH LARGER AMOUNT AS
14 IS SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN AND THE
15 PROCEEDS FROM THE ILLEGAL ACTIVITY; HOWEVER, IF AT THE
16 TIME OF SENTENCING THE DEFENDANT HAS BEEN CONVICTED OF
17 ANOTHER DRUG TRAFFICKING OFFENSE: [FIVE] FOUR YEARS IN
18 PRISON AND \$30,000 OR SUCH LARGER AMOUNT AS IS SUFFICIENT
19 TO EXHAUST THE ASSETS UTILIZED IN AND THE PROCEEDS FROM
20 THE ILLEGAL ACTIVITY; AND

21 (III) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
22 MIXTURE OF THE SUBSTANCE INVOLVED IS AT LEAST 100 GRAMS;
23 FOUR YEARS IN PRISON AND A FINE OF \$25,000 OR SUCH LARGER
24 AMOUNT AS IS SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN
25 AND THE PROCEEDS FROM THE ILLEGAL ACTIVITY; HOWEVER, IF
26 AT THE TIME OF SENTENCING THE DEFENDANT HAS BEEN
27 CONVICTED OF ANOTHER DRUG TRAFFICKING OFFENSE: [SEVEN]
28 EIGHT YEARS IN PRISON AND \$50,000 OR SUCH LARGER AMOUNT
29 AS IS SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN AND
30 THE PROCEEDS FROM THE ILLEGAL ACTIVITY.

1 (4) A PERSON WHO IS CONVICTED OF VIOLATING SECTION 13(A)
2 (14), (30) OR (37) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE
3 AND COSMETIC ACT WHERE THE CONTROLLED SUBSTANCE IS
4 METHAMPHETAMINE OR PHENCYCLIDINE OR IS A SALT, ISOMER OR SALT
5 OF AN ISOMER OF METHAMPHETAMINE OR PHENCYCLIDINE OR IS A
6 MIXTURE CONTAINING METHAMPHETAMINE OR PHENCYCLIDINE,
7 CONTAINING A SALT OF METHAMPHETAMINE OR PHENCYCLIDINE,
8 CONTAINING AN ISOMER OF METHAMPHETAMINE OR PHENCYCLIDINE,
9 CONTAINING A SALT OF AN ISOMER OF METHAMPHETAMINE OR
10 PHENCYCLIDINE SHALL, UPON CONVICTION, BE SENTENCED TO A
11 MANDATORY MINIMUM TERM OF IMPRISONMENT AND A FINE AS SET
12 FORTH IN THIS SUBSECTION:

13 (I) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
14 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST
15 FIVE GRAMS AND LESS THAN TEN GRAMS; THREE YEARS IN PRISON
16 AND A FINE OF \$15,000 OR SUCH LARGER AMOUNT AS IS
17 SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN AND THE
18 PROCEEDS FROM THE ILLEGAL ACTIVITY; HOWEVER, IF AT THE
19 TIME OF SENTENCING THE DEFENDANT HAS BEEN CONVICTED OF
20 ANOTHER DRUG TRAFFICKING OFFENSE: FIVE YEARS IN PRISON
21 AND \$30,000 OR SUCH LARGER AMOUNT AS IS SUFFICIENT TO
22 EXHAUST THE ASSETS UTILIZED IN AND THE PROCEEDS FROM THE
23 ILLEGAL ACTIVITY;

24 (II) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
25 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST TEN
26 GRAMS AND LESS THAN 100 GRAMS; FOUR YEARS IN PRISON AND A
27 FINE OF \$25,000 OR SUCH LARGER AMOUNT AS IS SUFFICIENT TO
28 EXHAUST THE ASSETS UTILIZED IN AND THE PROCEEDS FROM THE
29 ILLEGAL ACTIVITY; HOWEVER, IF AT THE TIME OF SENTENCING
30 THE DEFENDANT HAS BEEN CONVICTED OF ANOTHER DRUG

1 TRAFFICKING OFFENSE: SEVEN YEARS IN PRISON AND \$50,000 OR
2 SUCH LARGER AMOUNT AS IS SUFFICIENT TO EXHAUST THE ASSETS
3 UTILIZED IN AND THE PROCEEDS FROM THE ILLEGAL ACTIVITY;
4 AND

5 (III) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
6 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST 100
7 GRAMS; FIVE YEARS IN PRISON AND A FINE OF \$50,000 OR SUCH
8 LARGER AMOUNT AS IS SUFFICIENT TO EXHAUST THE ASSETS
9 UTILIZED IN AND THE PROCEEDS FROM THE ILLEGAL ACTIVITY;
10 HOWEVER, IF AT THE TIME OF SENTENCING THE DEFENDANT HAS
11 BEEN CONVICTED OF ANOTHER DRUG TRAFFICKING OFFENSE: EIGHT
12 YEARS IN PRISON AND \$50,000 OR SUCH LARGER AMOUNT AS IS
13 SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN AND THE
14 PROCEEDS FROM THE ILLEGAL ACTIVITY.

15 [(5) A PERSON WHO IS CONVICTED OF VIOLATING SECTION
16 13(A) (14), (30) OR (37) OF THE CONTROLLED SUBSTANCE, DRUG,
17 DEVICE AND COSMETIC ACT, AND WHO, IN THE COURSE OF THE
18 OFFENSE, MANUFACTURES, DELIVERS, BRINGS INTO THIS
19 COMMONWEALTH OR POSSESSES WITH INTENT TO MANUFACTURE OR
20 DELIVER AMPHETAMINE OR ANY SALT, OPTICAL ISOMER, OR SALT OF
21 AN OPTICAL ISOMER, OR A MIXTURE CONTAINING ANY SUCH
22 SUBSTANCES SHALL, WHEN THE AGGREGATE WEIGHT OF THE COMPOUND
23 OR MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST FIVE
24 GRAMS, BE SENTENCED TO TWO AND ONE-HALF YEARS IN PRISON AND A
25 FINE OF \$15,000 OR SUCH LARGER AMOUNT AS IS SUFFICIENT TO
26 EXHAUST THE ASSETS UTILIZED IN AND THE PROCEEDS FROM THE
27 ILLEGAL ACTIVITY; HOWEVER, IF AT THE TIME OF SENTENCING THE
28 DEFENDANT HAS BEEN CONVICTED OF ANOTHER DRUG TRAFFICKING
29 OFFENSE: BE SENTENCED TO FIVE YEARS IN PRISON AND \$30,000 OR
30 SUCH LARGER AMOUNT AS IS SUFFICIENT TO EXHAUST THE ASSETS

1 UTILIZED IN AND THE PROCEEDS FROM THE ILLEGAL ACTIVITY.

2 (6) A PERSON WHO IS CONVICTED OF VIOLATING SECTION 13(A)
3 (14), (30) OR (37) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE
4 AND COSMETIC ACT WHERE THE CONTROLLED SUBSTANCE IS
5 METHAQUALONE SHALL, UPON CONVICTION, BE SENTENCED TO A
6 MANDATORY MINIMUM TERM OF IMPRISONMENT AND A FINE AS SET
7 FORTH IN THIS SUBSECTION:

8 (I) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
9 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST 50
10 TABLETS, CAPSULES, CAPLETS OR OTHER DOSAGE UNITS, OR 25
11 GRAMS AND LESS THAN 200 TABLETS, CAPSULES, CAPLETS OR
12 OTHER DOSAGE UNITS, OR 100 GRAMS; ONE YEAR IN PRISON AND
13 A FINE OF \$2,500 OR SUCH LARGER AMOUNT AS IS SUFFICIENT
14 TO EXHAUST THE ASSETS UTILIZED IN AND THE PROCEEDS FROM
15 THE ILLEGAL ACTIVITY; HOWEVER, IF AT THE TIME OF
16 SENTENCING THE DEFENDANT HAS BEEN CONVICTED OF ANOTHER
17 DRUG TRAFFICKING OFFENSE: THREE YEARS IN PRISON AND
18 \$5,000 OR SUCH LARGER AMOUNT AS IS SUFFICIENT TO EXHAUST
19 THE ASSETS UTILIZED IN AND THE PROCEEDS FROM THE ILLEGAL
20 ACTIVITY; AND

21 (II) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
22 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST 200
23 TABLETS, CAPSULES, CAPLETS OR OTHER DOSAGE UNITS, OR MORE
24 THAN 100 GRAMS; TWO AND ONE-HALF YEARS IN PRISON AND A
25 FINE OF \$15,000 OR SUCH LARGER AMOUNT AS IS SUFFICIENT TO
26 EXHAUST THE ASSETS UTILIZED IN AND THE PROCEEDS FROM THE
27 ILLEGAL ACTIVITY; HOWEVER, IF AT THE TIME OF SENTENCING
28 THE DEFENDANT HAS BEEN CONVICTED OF ANOTHER DRUG
29 TRAFFICKING OFFENSE: FIVE YEARS IN PRISON AND \$30,000 OR
30 SUCH LARGER AMOUNT AS IS SUFFICIENT TO EXHAUST THE ASSETS

1 UTILIZED IN AND THE PROCEEDS FROM THE ILLEGAL ACTIVITY.]

2 (7) A PERSON WHO IS CONVICTED OF VIOLATING SECTION 13(A)
3 (14), (30) OR (37) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE
4 AND COSMETIC ACT WHERE THE CONTROLLED SUBSTANCE OR A MIXTURE
5 CONTAINING IT IS HEROIN SHALL, UPON CONVICTION, BE SENTENCED
6 AS SET FORTH IN THIS PARAGRAPH:

7 (I) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
8 MIXTURE CONTAINING THE HEROIN INVOLVED IS AT LEAST 1.0
9 GRAM BUT LESS THAN 5.0 GRAMS THE SENTENCE SHALL BE A
10 MANDATORY MINIMUM TERM OF TWO YEARS IN PRISON AND A FINE
11 OF \$5,000 OR SUCH LARGER AMOUNT AS IS SUFFICIENT TO
12 EXHAUST THE ASSETS UTILIZED IN AND THE PROCEEDS FROM THE
13 ILLEGAL ACTIVITY; HOWEVER, IF AT THE TIME OF SENTENCING
14 THE DEFENDANT HAS BEEN CONVICTED OF ANOTHER DRUG
15 TRAFFICKING OFFENSE: A MANDATORY MINIMUM TERM OF THREE
16 YEARS IN PRISON AND \$10,000 OR SUCH LARGER AMOUNT AS IS
17 SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN AND THE
18 PROCEEDS FROM THE ILLEGAL ACTIVITY;

19 (II) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
20 MIXTURE CONTAINING THE HEROIN INVOLVED IS AT LEAST 5.0
21 GRAMS BUT LESS THAN 50 GRAMS: A MANDATORY MINIMUM TERM OF
22 THREE YEARS IN PRISON AND A FINE OF \$15,000 OR SUCH
23 LARGER AMOUNT AS IS SUFFICIENT TO EXHAUST THE ASSETS
24 UTILIZED IN AND THE PROCEEDS FROM THE ILLEGAL ACTIVITY;
25 HOWEVER, IF AT THE TIME OF SENTENCING THE DEFENDANT HAS
26 BEEN CONVICTED OF ANOTHER DRUG TRAFFICKING OFFENSE: A
27 MANDATORY MINIMUM TERM OF FIVE YEARS IN PRISON AND
28 \$30,000 OR SUCH LARGER AMOUNT AS IS SUFFICIENT TO EXHAUST
29 THE ASSETS UTILIZED IN AND THE PROCEEDS FROM THE ILLEGAL
30 ACTIVITY; AND

1 (III) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
2 MIXTURE CONTAINING THE HEROIN INVOLVED IS 50 GRAMS OR
3 GREATER: A MANDATORY MINIMUM TERM OF FIVE YEARS IN PRISON
4 AND A FINE OF \$25,000 OR SUCH LARGER AMOUNT AS IS
5 SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN AND THE
6 PROCEEDS FROM THE ILLEGAL ACTIVITY; HOWEVER, IF AT THE
7 TIME OF SENTENCING THE DEFENDANT HAS BEEN CONVICTED OF
8 ANOTHER DRUG TRAFFICKING OFFENSE: A MANDATORY MINIMUM
9 TERM OF SEVEN YEARS IN PRISON AND \$50,000 OR SUCH LARGER
10 AMOUNT AS IS SUFFICIENT TO EXHAUST THE ASSETS UTILIZED IN
11 AND THE PROCEEDS FROM THE ILLEGAL ACTIVITY.

12 (8) A PERSON WHO IS CONVICTED OF VIOLATING SECTION 13(A)
13 (12), (14) OR (30) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE
14 AND COSMETIC ACT WHERE THE CONTROLLED SUBSTANCE OR A MIXTURE
15 CONTAINING IT IS 3,4-METHYLENEDIOXYAMPHETAMINE (MDA); 3,4-
16 METHYLENEDIOXYMETHAMPHETAMINE (MDMA); 5-METHOXY-3,4-
17 METHYLENEDIOXYAMPHETAMINE (MMDA); 3,4-METHYLENEDIOXY-N-
18 ETHYLAMPHETAMINE; N-HYDROXY-3,4-METHYLENEDIOXYAMPHETAMINE; OR
19 THEIR SALTS, ISOMERS AND SALTS OF ISOMERS, WHENEVER THE
20 EXISTENCE OF SUCH SALTS, ISOMERS AND SALTS OF ISOMERS IS
21 POSSIBLE WITHIN THE SPECIFIC CHEMICAL DESIGNATION, SHALL,
22 UPON CONVICTION, BE SENTENCED AS SET FORTH IN THIS PARAGRAPH:

23 (I) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
24 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST 50
25 TABLETS, CAPSULES, CAPLETS OR OTHER DOSAGE UNITS, OR 15
26 GRAMS AND LESS THAN 100 TABLETS, CAPSULES, CAPLETS OR
27 OTHER DOSAGE UNITS, OR LESS THAN 30 GRAMS, THE PERSON IS
28 GUILTY OF A FELONY AND, UPON CONVICTION THEREOF, SHALL BE
29 SENTENCED TO IMPRISONMENT NOT EXCEEDING FIVE YEARS OR TO
30 PAY A FINE NOT EXCEEDING \$15,000, OR BOTH.

1 (II) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
2 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST 100
3 TABLETS, CAPSULES, CAPLETS OR OTHER DOSAGE UNITS, OR 30
4 GRAMS AND LESS THAN 1,000 TABLETS, CAPSULES, CAPLETS OR
5 OTHER DOSAGE UNITS, OR LESS THAN 300 GRAMS, THE PERSON IS
6 GUILTY OF A FELONY AND, UPON CONVICTION THEREOF, SHALL BE
7 SENTENCED TO IMPRISONMENT NOT EXCEEDING TEN YEARS OR TO
8 PAY A FINE NOT EXCEEDING \$100,000, OR BOTH.

9 (III) WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR
10 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST
11 1,000 TABLETS, CAPSULES, CAPLETS OR OTHER DOSAGE UNITS,
12 OR 300 GRAMS, THE PERSON IS GUILTY OF A FELONY AND, UPON
13 CONVICTION THEREOF, SHALL BE SENTENCED TO IMPRISONMENT
14 NOT EXCEEDING 15 YEARS OR TO PAY A FINE NOT EXCEEDING
15 \$250,000, OR BOTH.

16 * * *

17 (B) [PROOF OF SENTENCING.--PROVISIONS OF THIS SECTION SHALL
18 NOT BE AN ELEMENT OF THE CRIME. NOTICE OF THE APPLICABILITY OF
19 THIS SECTION TO THE DEFENDANT SHALL NOT BE REQUIRED PRIOR TO
20 CONVICTION, BUT REASONABLE NOTICE OF THE COMMONWEALTH'S
21 INTENTION TO PROCEED UNDER THIS SECTION SHALL BE PROVIDED AFTER
22 CONVICTION AND BEFORE SENTENCING. THE APPLICABILITY OF THIS
23 SECTION SHALL BE DETERMINED AT SENTENCING. THE COURT SHALL
24 CONSIDER EVIDENCE PRESENTED AT TRIAL, SHALL AFFORD THE
25 COMMONWEALTH AND THE DEFENDANT AN OPPORTUNITY TO PRESENT
26 NECESSARY ADDITIONAL EVIDENCE AND SHALL DETERMINE, BY A
27 PREPONDERANCE OF THE EVIDENCE, IF THIS SECTION IS APPLICABLE.]
28 APPLICATION OF MANDATORY MINIMUM PENALTY.--WITH THE EXCEPTION OF
29 PRIOR CONVICTIONS, ANY PROVISION OF THIS SECTION THAT REQUIRES
30 IMPOSITION OF A MANDATORY MINIMUM SENTENCE SHALL CONSTITUTE AN

1 ELEMENT ENHANCING THE UNDERLYING OFFENSE. ANY ENHANCING ELEMENT
2 MUST BE PROVEN BEYOND A REASONABLE DOUBT AT TRIAL ON THE
3 UNDERLYING OFFENSE AND MUST BE SUBMITTED TO THE FACT-FINDER FOR
4 DELIBERATION TOGETHER WITH THE UNDERLYING OFFENSE. IF THE FACT-
5 FINDER FINDS THE DEFENDANT GUILTY OF THE UNDERLYING OFFENSE, THE
6 FACT-FINDER SHALL THEN ALSO DECIDE WHETHER ANY ENHANCING ELEMENT
7 HAS BEEN PROVEN.

8 * * *

9 (D) [APPELLATE REVIEW.--IF A SENTENCING COURT REFUSES TO
10 APPLY THIS SECTION WHERE APPLICABLE, THE COMMONWEALTH SHALL HAVE
11 THE RIGHT TO APPELLATE REVIEW OF THE ACTION OF THE SENTENCING
12 COURT. THE APPELLATE COURT SHALL VACATE THE SENTENCE AND REMAND
13 THE CASE TO THE SENTENCING COURT FOR IMPOSITION OF A SENTENCE IN
14 ACCORDANCE WITH THIS SECTION IF IT FINDS THAT THE SENTENCE WAS
15 IMPOSED IN VIOLATION OF THIS SECTION.] APPEAL BY THE
16 COMMONWEALTH.--IF THE FACT-FINDER HAS FOUND ANY ENHANCING
17 ELEMENT AND A SENTENCING COURT IMPOSES A SENTENCE BELOW THE
18 MANDATORY MINIMUM SENTENCE, THE COMMONWEALTH SHALL HAVE THE
19 RIGHT TO APPELLATE REVIEW OF THE SENTENCE. IF THE APPELLATE
20 COURT FINDS THAT THE MANDATORY SENTENCING PROVISION WAS
21 APPLICABLE, THE COURT SHALL VACATE THE SENTENCE AND REMAND FOR
22 RESENTENCING IN ACCORDANCE WITH THAT PROVISION.

23 * * *

24 SECTION 2. SECTION 9713(C) AND (E) OF TITLE 42 ARE AMENDED
25 TO READ:

26 § 9713. Sentences for offenses committed on public
27 transportation.

28 * * *

29 (c) [Proof at sentencing.--Provisions of this section shall
30 not be an element of the crime and notice thereof to the

1 defendant shall not be required prior to conviction, but
2 reasonable notice of the Commonwealth's intention to proceed
3 under this section shall be provided after conviction and before
4 sentencing. The applicability of this section shall be
5 determined at sentencing. The court shall consider any evidence
6 presented at trial and shall afford the Commonwealth and the
7 defendant an opportunity to present any necessary additional
8 evidence and shall determine, by a preponderance of the
9 evidence, if this section is applicable.] Application of
10 mandatory minimum penalty.--Any provision of this section that
11 requires imposition of a mandatory minimum sentence constitutes
12 an element enhancing the underlying offense. An enhancing
13 element must be proven beyond a reasonable doubt at trial on the
14 underlying offense and must be submitted to the finder of fact
15 for deliberation together with the underlying offense. If the
16 finder of fact determines the defendant is guilty of the
17 underlying offense, the finder of fact will then decide whether
18 an enhancing element has been proven.

19 * * *

20 (e) Appeal by Commonwealth.--[If a sentencing court refuses
21 to apply this section where applicable, the Commonwealth shall
22 have the right to appellate review of the action of the
23 sentencing court. The appellate court shall vacate the sentence
24 and remand the case to the sentencing court for imposition of a
25 sentence in accordance with this section if it finds that the
26 sentence was imposed in violation of this section.] If the
27 finder of fact has found an enhancing element and a sentencing
28 court imposes a sentence below the mandatory minimum sentence,
29 the Commonwealth has the right to appellate review of the
30 sentence. If the appellate court finds that the mandatory

1 sentencing provision was applicable, the court must vacate the
2 sentence and remand for resentencing in accordance with that
3 provision.

4 Section 2 3. Section 9717 of Title 42 is amended by adding <--
5 subsections to read:

6 § 9717. Sentences for offenses against elderly persons.

7 * * *

8 (c) Application of mandatory minimum penalty.--Any provision
9 of this section that requires imposition of a mandatory minimum
10 sentence shall constitute an element enhancing the underlying
11 offense. An enhancing element must be proven beyond a reasonable
12 doubt at trial on the underlying offense and must be submitted
13 to the finder of fact for deliberation together with the
14 underlying offense. If the finder of fact determines the
15 defendant is guilty of the underlying offense, the finder of
16 fact shall then decide whether an enhancing element has been
17 proven.

18 (d) Appeal by Commonwealth.--If the finder of fact has found
19 an enhancing element and a sentencing court imposes a sentence
20 below the mandatory minimum sentence, the Commonwealth has the
21 right to appellate review of the sentence. If the appellate
22 court finds that the mandatory sentencing provision was
23 applicable, the court must vacate the sentence and remand for
24 resentencing in accordance with that provision.

25 Section 3 4. Sections 9718(c) and (e) and 9719(b) and (d) of <--
26 Title 42 are amended to read:

27 § 9718. Sentences for offenses against infant persons.

28 * * *

29 (c) [Proof at sentencing.--The provisions of this section
30 shall not be an element of the crime, and notice of the

1 provisions of this section to the defendant shall not be
2 required prior to conviction, but reasonable notice of the
3 Commonwealth's intention to proceed under this section shall be
4 provided after conviction and before sentencing. The
5 applicability of this section shall be determined at sentencing.
6 The court shall consider any evidence presented at trial and
7 shall afford the Commonwealth and the defendant an opportunity
8 to present any necessary additional evidence and shall
9 determine, by a preponderance of the evidence, if this section
10 is applicable.] Application of mandatory minimum penalty.--Any
11 provision of this section that requires imposition of a
12 mandatory minimum sentence constitutes an element enhancing the
13 underlying offense. An enhancing element must be proven beyond a
14 reasonable doubt at trial on the underlying offense and must be
15 submitted to the finder of fact for deliberation together with
16 the underlying offense. If the finder of fact determines the
17 defendant is guilty of the underlying offense, the finder of
18 fact will then decide whether an enhancing element has been
19 proven.

20 * * *

21 (e) Appeal by Commonwealth.--[If a sentencing court refuses
22 to apply this section where applicable, the Commonwealth shall
23 have the right to appellate review of the action of the
24 sentencing court. The appellate court shall vacate the sentence
25 and remand the case to the sentencing court for imposition of a
26 sentence in accordance with this section if it finds that the
27 sentence was imposed in violation of this section.] If the
28 finder of fact has found an enhancing element and a sentencing
29 court imposes a sentence below the mandatory minimum sentence,
30 the Commonwealth has the right to appellate review of the

1 sentence. If the appellate court finds that the mandatory
2 sentencing provision was applicable, the court must vacate the
3 sentence and remand for resentencing in accordance with that
4 provision.

5 § 9719. Sentences for offenses committed while impersonating a
6 law enforcement officer.

7 * * *

8 (b) [Proof at sentencing.--Provisions of this section shall
9 not be an element of the crime and notice thereof to the
10 defendant shall not be required prior to conviction, but
11 reasonable notice of the Commonwealth's intention to proceed
12 under this section shall be provided after conviction and before
13 sentencing. The applicability of this section shall be
14 determined at sentencing. The sentencing court shall consider
15 evidence presented at trial and shall afford the Commonwealth
16 and the defendant an opportunity to present necessary additional
17 evidence and shall determine, by a preponderance of the
18 evidence, if this section is applicable.] Application of
19 mandatory minimum penalty.--With the exception of prior
20 convictions, any provision of this section that requires
21 imposition of a mandatory minimum sentence constitutes an
22 element enhancing the underlying offense. An enhancing element
23 must be proven beyond a reasonable doubt at trial on the
24 underlying offense and must be submitted to the finder of fact
25 for deliberation together with the underlying offense. If the
26 finder of fact determines the defendant is guilty of the
27 underlying offense, the finder of fact will then decide whether
28 an enhancing element has been proven.

29 * * *

30 (d) Appeal by Commonwealth.--[If a sentencing court refuses

1 to apply this section where applicable, the Commonwealth shall
2 have the right to appellate review of the action of the
3 sentencing court. The appellate court shall vacate the sentence
4 and remand the case to the sentencing court for imposition of a
5 sentence in accordance with this section if it finds that the
6 sentence was imposed in violation of this section.] If the
7 finder of fact has found an enhancing element and a sentencing
8 court imposes a sentence below the mandatory minimum sentence,
9 the Commonwealth has the right to appellate review of the
10 sentence. If the appellate court finds that the mandatory
11 sentencing provision was applicable, the court must vacate the
12 sentence and remand for resentencing in accordance with that
13 provision.

14 * * *

15 Section 4 5. This act shall take effect in 60 days.

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