

AMENDMENTS TO HOUSE BILL NO. 1851

Sponsor: REPRESENTATIVE KAUFFMAN

Printer's No. 2532

1 Amend Bill, page 1, line 4, by striking out "for sentences
2 for second and subsequent offenses." and inserting
3 providing for sentences for persons not to possess, use,
4 manufacture, control, sell or transfer firearms.

5 Amend Bill, page 3, lines 16 through 30; page 4, lines 1
6 through 30; by striking out all of said lines on said pages and
7 inserting

8 Section 2. Title 42 is amended by adding a section to read:
9 § 9712.2. Sentences for persons not to possess, use,

10 manufacture, control, sell or transfer firearms.

11 (a) First conviction.--Any person who is convicted under 18
12 Pa.C.S. § 6105(a) (relating to persons not to possess, use,
13 manufacture, control, sell or transfer firearms) as a result of
14 a felony enumerated under 18 Pa.C.S. § 6105(b) or a felony under
15 the act of April 14, 1972 (P.L.233, No.64), known as The
16 Controlled Substance, Drug, Device and Cosmetic Act, or any
17 equivalent Federal statute or equivalent statute of any state
18 punishable by a term of imprisonment exceeding two years, shall
19 be sentenced to a minimum sentence of at least five years of
20 total confinement notwithstanding any other provision of this
21 title or other statute to the contrary.

22 (b) Second and subsequent convictions.--A second or
23 subsequent conviction under 18 Pa.C.S. § 6105(a) as a result of
24 a felony enumerated under 18 Pa.C.S. § 6105(b) or a felony under
25 The Controlled Substance, Drug, Device and Cosmetic Act, or any
26 equivalent Federal statute or equivalent statute of any state
27 punishable by a term of imprisonment exceeding two years, shall
28 constitute a "crime of violence" as that term is defined in
29 section 9714(g) (relating to sentences for second and subsequent
30 offenses) and the person shall be sentenced in accordance with
31 section 9714.

32 (c) Proof at sentencing.--Provisions of this section shall
33 not be an element of the crime and notice thereof to the
34 defendant shall not be required prior to conviction, but
35 reasonable notice of the Commonwealth's intention to proceed

1 under this section shall be provided after conviction and before
2 sentencing. The applicability of this section shall be
3 determined at sentencing. The sentencing court, prior to
4 imposing sentence on an offender under subsection (a), shall
5 have a complete record of the previous convictions of the
6 offender, copies of which shall be furnished to the offender. If
7 the offender or the attorney for the Commonwealth contests the
8 accuracy of the record, the court shall schedule a hearing and
9 direct the offender and the attorney for the Commonwealth to
10 submit evidence regarding the previous convictions of the
11 offender. The court shall then determine, by a preponderance of
12 the evidence, the previous convictions of the offender and, if
13 this section is applicable, shall impose sentence in accordance
14 with this section. Should a previous conviction be vacated and
15 an acquittal or final discharge entered subsequent to imposition
16 of sentence under this section, the offender shall have the
17 right to petition the sentencing court for reconsideration of
18 sentence if this section would not have been applicable except
19 for the conviction which was vacated.

20 (d) 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.