

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 752 Session of
2003

INTRODUCED BY BARD, HICKERNELL, GEIST, STURLA, BARRAR, BROWNE,
BUNT, CORRIGAN, CRUZ, CURRY, EGOLF, GOODMAN, HARHAI, HERSHEY,
KIRKLAND, MELIO, RUBLEY, STABACK, E. Z. TAYLOR AND THOMAS,
MARCH 6, 2003

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 18, 2003

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 sentences for offenses committed with firearms.

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

6 Section 1. Section 9712(a) of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended AND THE SECTION IS AMENDED BY <—
8 ADDING A SUBSECTION to read:

9 § 9712. Sentences for offenses committed with firearms.

10 (a) Mandatory sentence.--

11 (1) Except as provided under section 9716 (relating to
12 two or more mandatory minimum sentences applicable), any
13 person who is convicted in any court of this Commonwealth of
14 a crime of violence as defined in section 9714(g) (relating
15 to sentences for second and subsequent offenses), shall, if
16 the person visibly possessed a firearm or a replica of a
17 firearm, whether or not the firearm or replica was loaded or

functional, that placed the victim in reasonable fear of death or serious bodily injury, during the commission of the offense, be sentenced to a minimum sentence of at least five years of total confinement notwithstanding any other provision of this title or other statute to the contrary. Such persons shall not be eligible for parole, probation, work release or furlough.

(2) Any person who is convicted of a violation of section 13(a)(30) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, when at the time of the offense, the person or the person's accomplice is in physical possession or control of a firearm or replica firearm, whether visibly, WHETHER <—
VISIBLE, concealed about the person or the person's accomplice or within the actor's or accomplice's reach, shall likewise be sentenced to a minimum sentence of at least five years of total confinement.

(A.1) LIMITATION ON AGGREGATE SENTENCES.--WHERE A DEFENDANT <—
IS SUBJECT TO A MANDATORY MINIMUM SENTENCE UNDER 18 PA.C.S. § 7508(A) (RELATING TO DRUG TRAFFICKING SENTENCING AND PENALTIES) AND IS ALSO SUBJECT TO AN ADDITIONAL PENALTY UNDER SUBSECTION (A), AND WHERE THE COURT ELECTS TO AGGREGATE THESE PENALTIES, THE COMBINED MINIMUM SENTENCE MAY NOT EXCEED THE STATUTORY MAXIMUM SENTENCE OF IMPRISONMENT ALLOWABLE UNDER THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

* * *

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