

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1255 Session of
1995

INTRODUCED BY GLADECK, FICHTER, MELIO, DONATUCCI, L. I. COHEN,
RAYMOND, E. Z. TAYLOR, DEMPSEY, MCGEEHAN, J. TAYLOR, TRELLO,
BROWNE, STEELMAN, PISTELLA AND HALUSKA, MARCH 20, 1995

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 20, 1995

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, further providing for aggravated assault and for
4 transfer to criminal proceedings.

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

7 Section 1. Section 2702 of Title 18 of the Pennsylvania
8 Consolidated Statutes is amended by adding subsections to read:
9 § 2702. Aggravated assault.

10 * * *

11 (c) Mandatory minimum term.--A person who is convicted of a
12 violation of subsection (a)(4) where the offense occurred in a
13 public place shall, upon conviction, be sentenced to a mandatory
14 minimum term of imprisonment of ten years.

15 (d) Proof at sentencing.--The provisions of this section
16 shall not be an element of the crime. Notice of the
17 applicability of this section to the defendant shall not be
18 required prior to conviction, but reasonable notice of the

1 Commonwealth's intention to proceed under this section shall be
2 provided after conviction and before sentencing. The
3 applicability of this section shall be determined at sentencing.
4 The court shall consider evidence presented at trial, shall
5 afford the Commonwealth and the defendant an opportunity to
6 present necessary additional evidence and shall determine, by a
7 preponderance of the evidence, if this section is applicable.

8 (e) Mandatory sentencing.--There shall be no authority in
9 any court to impose on an offender to which this section is
10 applicable a lesser sentence than provided for in this section
11 or to place the offender on probation, parole with release or
12 prerelease or to suspend sentence. Nothing in this section shall
13 prevent a court from providing a sentence greater than that
14 provided in this section. Sentencing guidelines promulgated by
15 the Pennsylvania Commission on Sentencing shall not supersede
16 the mandatory sentences provided in this section.

17 (f) Appeal by Commonwealth.--If a sentencing court refuses
18 to apply this section where applicable, the Commonwealth shall
19 have the right to appellate review of the action of the
20 sentencing court. The appellate court shall vacate the sentence
21 and remand the case to the sentencing court for imposition of a
22 sentence in accordance with this section if it finds that the
23 sentence was imposed in violation of this section.

24 Section 2. Section 6355 of Title 42 is amended by adding a
25 subsection to read:

26 § 6355. Transfer to criminal proceedings.

27 * * *

28 (g) Aggravated assault with a weapon in a public place.--
29 Where the petition alleges conduct which if proven would
30 constitute a violation of 18 Pa.C.S. § 2702(a)(4) (relating to

1 aggravated assault) and the alleged conduct was committed in a
2 public place, the court shall require the offense to be
3 prosecuted under the criminal law and procedure.

4 Section 3. This act shall take effect in 60 days.