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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1648 Session of  
1993

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INTRODUCED BY PRESTON, ROEBUCK, ROBERTS, LAUB, COY, MELIO,  
CESSAR, NAILOR, GLADECK, FARMER, MIHALICH, MUNDY, VEON, FAJT,  
J. TAYLOR, KELLER, DeLUCA, STABACK, MILLER, TANGRETTI, KING,  
JAMES, GERLACH, TRELLO, BATTISTO, TOMLINSON, GEIST, EGOLF,  
PETRARCA, DRUCE, SANTONI, PISTELLA, CIVERA AND FREEMAN,  
MAY 24, 1993

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REFERRED TO COMMITTEE ON JUDICIARY, MAY 24, 1993

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for sentencing and  
3 penalties relating to trafficking in drugs.

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

6 Section 1. Section 6314 of Title 18 of the Pennsylvania  
7 Consolidated Statutes is amended to read:

8 § 6314. Sentencing and penalties for trafficking drugs to  
9 minors.

10 (a) General rule.--A person [over] 18 years of age or older  
11 who is convicted in any court of this Commonwealth of a  
12 violation of section 13(a)(14) or (30) of the act of April 14,  
13 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,  
14 Device and Cosmetic Act, shall, if the delivery or possession  
15 with intent to deliver of the controlled substance was to a  
16 minor, be sentenced to a minimum sentence of at least one year

1 total confinement, notwithstanding any other provision of this  
2 title or other statute to the contrary.

3 (b) Additional penalties.--In addition to the mandatory  
4 minimum sentence set forth in subsection (a), the person shall  
5 be sentenced to an additional minimum sentence of at least two  
6 years total confinement, notwithstanding any other provision of  
7 this title or other statute to the contrary, if the person did  
8 any of the following:

9 (1) Committed the offense with the intent to promote the  
10 habitual use of the controlled substance.

11 (2) Intended to engage the minor in the trafficking,  
12 transportation, delivery, manufacturing, sale or conveyance.

13 [(3) Committed the offense within 1,000 feet of the real  
14 property on which is located a public, private or parochial  
15 school or a college or university.]

16 (b.1) Trafficking drugs in vicinity of schools.--A person 18  
17 years of age or older who is convicted in a court of this  
18 Commonwealth of violating section 13(a)(14) or (30) of The  
19 Controlled Substance, Drug, Device and Cosmetic Act shall, if  
20 the offense was committed within 1,500 feet of the real property  
21 on which is located a public, private or parochial school, a  
22 college or university or a licensed child-care facility or at or  
23 on a publicly owned recreational area or facility, be sentenced  
24 to a minimum sentence of at least three years' total  
25 confinement, notwithstanding any other provision of this title  
26 or other statute to the contrary.

27 (c) Proof at sentencing.--The provisions of this section  
28 shall not be an element of the crime. Notice of the  
29 applicability of this section to the defendant shall not be  
30 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 (d) Authority of court in sentencing.--There shall be no  
9 authority for a court to impose on a defendant to which this  
10 section is applicable a lesser sentence than provided for in  
11 [subsection (a)] this section, to place the defendant on  
12 probation or to suspend sentence. The court may, however, employ  
13 a sentencing alternative such as work release, community service  
14 or restitution. Nothing in this section shall prevent the  
15 sentencing court from imposing a sentence greater than that  
16 provided in this section. Sentencing guidelines promulgated by  
17 the Pennsylvania Commission on Sentencing shall not supersede  
18 the mandatory sentences provided in this section. Disposition  
19 under section 17 or 18 of The Controlled Substance, Drug, Device  
20 and Cosmetic Act shall not be available to a defendant to which  
21 this section applies.

22 (e) Appeal by Commonwealth.--If a sentencing court refuses  
23 to apply this section where applicable, the Commonwealth shall  
24 have the right to appellate review of the action of the  
25 sentencing court. The appellate court shall vacate the sentence  
26 and remand the case to the sentencing court for imposition of a  
27 sentence in accordance with this section if it finds that the  
28 sentence was imposed in violation of this section.

29 (f) Forfeiture.--Assets against which a forfeiture petition  
30 has been filed and is pending or against which the Commonwealth

1 has indicated an intention to file a forfeiture petition shall  
2 not be subject to a fine under this section.

3 (g) Definition.--As used in this section, the term "minor"  
4 means an individual under 18 years of age.

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