

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 435

Session of
1987

INTRODUCED BY DeLUCA, STABACK, COWELL, DALEY, JOHNSON, KOSINSKI,
J. L. WRIGHT, NOYE, J. TAYLOR, PRESSMANN, MRKONIC, COLE, FOX,
KENNEY, COY, TRELLO, HERMAN, RAYMOND, JAROLIN, BARLEY, GEIST,
GODSHALL, FLICK, MAIALE, HOWLETT, FISCHER, GLADECK, SCHEETZ,
E. Z. TAYLOR, HERSHEY, DISTLER, CIVERA, KASUNIC, HALUSKA,
BLAUM, ARTY, CORNELL, NAHILL AND BALDWIN, FEBRUARY 25, 1987

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, FEBRUARY 25, 1987

AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled
2 "An act relating to the manufacture, sale and possession of
3 controlled substances, other drugs, devices and cosmetics;
4 conferring powers on the courts and the secretary and
5 Department of Health, and a newly created Pennsylvania Drug,
6 Device and Cosmetic Board; establishing schedules of
7 controlled substances; providing penalties; requiring
8 registration of persons engaged in the drug trade and for the
9 revocation or suspension of certain licenses and
10 registrations; and repealing an act," further providing for
11 penalties.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 13 of the act of April 14, 1972 (P.L.233,
15 No.64), known as The Controlled Substance, Drug, Device and
16 Cosmetic Act, is amended by adding a subsection to read:

17 Section 13. Prohibited Acts; Penalties.--* * *

18 (g.1) A person over eighteen years of age who is convicted
19 in any court of this Commonwealth for selling or delivering a
20 controlled substance listed in Schedules I through V to a minor

1 shall be sentenced to imprisonment of at least three years,
2 notwithstanding any other provision of this act or any other
3 statute to the contrary. Notice of this subsection to the
4 defendant shall not be required prior to conviction, but
5 reasonable notice of the Commonwealth's intention to proceed
6 under this subsection shall be provided after conviction, and
7 before sentencing. There shall be no authority in any court to
8 impose on an offender to which this section is applicable a
9 lesser sentence than provided herein or to place the offender on
10 probation or to suspend sentence. Nothing in this subsection
11 shall prevent the sentencing court from imposing the greater
12 sentences authorized in subsection (f). Sentencing guidelines
13 promulgated by the Pennsylvania Commission on Sentencing shall
14 not supersede the mandatory sentences provided in this section.
15 If a sentencing court refuses to apply this subsection, where
16 applicable, the Commonwealth shall have the right to appellate
17 review of the action of the sentencing court. The appellate
18 court shall vacate the sentence and remand the case to the
19 sentencing court for imposition of a sentence in accordance with
20 this subsection, if it finds that the sentence was imposed in
21 violation of this section.

22 * * *

23 Section 2. The act is amended by adding a section to read:

24 Section 13.1. Drug Trafficking; Penalties.--(a)

25 Notwithstanding any other provisions of this or any other act to
26 the contrary, the following provisions shall apply:

27 (1) Any person who manufactures, delivers, brings into this
28 Commonwealth, cultivates or possesses with intent to
29 manufacture; deliver or cultivate fifty pounds or more of
30 marihuana commits a felony and shall, upon conviction, be

1 sentenced to a mandatory minimum term of imprisonment of five
2 years and shall be fined not less than twenty-five thousand
3 dollars (\$25,000) or such larger amount as is sufficient to
4 exhaust the assets utilized in and the proceeds from the illegal
5 activity.

6 (2) Any person who manufactures, delivers, brings into this
7 Commonwealth, or possesses with intent to manufacture or deliver
8 fifty grams or more of heroin or any salt thereof, morphine or
9 any salt thereof, opium or any derivative thereof, or of any
10 mixture containing any such substance, commits a felony and
11 shall, upon conviction, be sentenced to a mandatory minimum term
12 of imprisonment of five years and shall be fined not less than
13 twenty-five thousand dollars (\$25,000) or such larger amount as
14 is sufficient to exhaust the assets utilized in and the proceeds
15 from the illegal activity.

16 (3) Any person who manufactures, delivers, brings into this
17 Commonwealth, or possesses with intent to manufacture or deliver
18 fifty grams or more of cocaine, or any salt, compound,
19 derivative, or preparation of coca leaves, except decocainized
20 coca leaves or extracts of coca leaves which do not contain
21 cocaine or ecgonine, or any mixture containing any such
22 substances, commits a felony and shall, upon conviction, be
23 sentenced to a mandatory minimum term of imprisonment of five
24 years and shall be fined not less than twenty-five thousand
25 dollars (\$25,000) or such larger amount as is sufficient to
26 exhaust the assets utilized in and the proceeds from the illegal
27 activity.

28 (4) Any person who manufactures, delivers, brings into this
29 Commonwealth, or possesses with intent to manufacture or deliver
30 fifty grams or more of methamphetamine, or any salt, isomer or

salt of an isomer thereof, or of amphetamine, or any salt,
optical isomer, or salt of an optical isomer thereof, or of any
mixture containing any such substance, commits a felony and
shall, upon conviction, be sentenced to a mandatory minimum term
of imprisonment of five years and shall be fined not less than
twenty-five thousand dollars (\$25,000) or such larger amount as
is sufficient to exhaust the assets utilized in and the proceeds
from the illegal activity.

(5) Any person who manufactures, delivers, brings into this
Commonwealth, or possesses with intent to manufacture or deliver
one thousand or more tablets, capsules or other dosage units, or
the equivalent quantity, of methaqualone, commits a felony and
shall, upon conviction, be sentenced to a mandatory minimum term
of imprisonment of five years and shall be fined not less than
twenty-five thousand dollars (\$25,000) or such larger amount as
is sufficient to exhaust the assets utilized in and the proceeds
from the illegal activity.

(b) Except as otherwise set forth in subsection (c), there
shall be no authority in any court to impose on an offender to
which this section is applicable any lesser sentence than
provided for herein or to place the offender on probation or to
suspend sentence. Nothing in this section shall prevent the
sentencing court from imposing a sentence greater than provided
herein. Sentencing guidelines promulgated by the Pennsylvania
Commission on Sentencing shall not supersede the mandatory
sentences provided herein.

(c) The court imposing sentence hereunder may impose a
reduced sentence only if the Commonwealth moves for same. The
only grounds for such motion by the Commonwealth shall be that
the defendant has provided substantial assistance in the

1 identification, arrest or conviction of any of his or her
2 accomplices, accessories, coconspirators or principals. Upon the
3 filing of such motion, the court imposing sentence hereunder
4 shall order a hearing for the time of sentencing at which the
5 Commonwealth shall present evidence to support its motion. For
6 good cause shown, the motion may be filed and heard in camera.
7 At the conclusion of such hearing at time of sentence, the judge
8 shall have the discretion to impose a reduced sentence if the
9 judge finds that the defendant has rendered substantial
10 assistance as set forth by the Commonwealth. Neither failure of
11 the judge to find that substantial assistance has been rendered
12 nor refusal by the judge to impose a reduced sentence shall be
13 grounds for any appeal by the defendant.

14 (d) If a sentencing court refuses to apply this section
15 where applicable, the Commonwealth shall have the right to
16 appellate review of the action of the sentencing court. The
17 appellate court shall vacate the sentence and remand the case to
18 the sentencing court for imposition of a sentence in accordance
19 with this subsection if it finds that the sentence was imposed
20 in violation of this section.

21 Section 3. This act shall take effect in 30 days.