

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1275 Session of  
1989

INTRODUCED BY DeLUCA, CALTAGIRONE, MOEHLMANN, BIRMELIN, ACOSTA, ADOLPH, ANGSTADT, ARGALL, BELARDI, BELFANTI, BILLOW, BISHOP, BLAUM, BOYES, BUNT, BURD, BUSH, CIVERA, COLAIZZO, COLE, CORRIGAN, DALEY, FAIRCHILD, FARGO, FEE, FOX, GEIST, GIGLIOTTI, HAGARTY, HALUSKA, HARPER, HERMAN, HOWLETT, JOHNSON, KASUNIC, KOSINSKI, LASHINGER, LETTERMAN, MAIALE, MARKOSEK, MELIO, MORRIS, MRKONIC, NOYE, PISTELLA, PITTS, PRESSMANN, RAYMOND, ROBINSON, SERAFINI, B. SMITH, G. SNYDER, STABACK, STEIGHNER, STUBAN, TANGRETTI, J. TAYLOR, TRELLO, TRICH, VEON, WAMBACH, WASS, WOZNIAK, J. L. WRIGHT, F. TAYLOR AND O'BRIEN, APRIL 24, 1989

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 24, 1989

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," providing for designer  
11 drugs and drug trafficking resulting in death.

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

14 Section 1. Section 2(b) of the act of April 14, 1972  
15 (P.L.233, No.64), known as The Controlled Substance, Drug,  
16 Device and Cosmetic Act, is amended by adding definitions to  
17 read:

18 Section 2. Definitions.--\* \* \*

(b) As used in this act:

\* \* \*

"Designer drug" means a substance other than a controlled substance that has a chemical structure substantially similar to that of a controlled substance in Schedules I or II of this act which produces an effect substantially similar to that of a controlled substance in Schedules I or II. Examples of chemical classes in which designer drugs are found include, but are not limited to, the following: Phenethylamines, N-substituted piperidines, morphinans, ecgonines, quinazolinones, substituted indoles and arylcycloalkylamines.

\* \* \*

"Engagement" means solicitation, inducement, encouragement, coercion, employment, hiring, direction or use.

\* \* \*

Section 2. Section 13(a) of the act is amended by adding a clause and the section is amended by adding a subsection to read:

Section 13. Prohibited Acts; Penalties.--(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

\* \* \*

(37) Except as authorized by this act, the engagement of an individual under 18 years of age, without regard to a legal consideration or payment of a fee or compensation and without regard for knowledge or mistaken belief of the age of the individual engaged:

(i) to manufacture, produce, deliver, distribute, possess, transport, carry, conceal, acquire, obtain possession, purchase, receive, package, repackage, or store a controlled substance or

1 designer drug;

2 (ii) to hinder, obstruct or avoid investigation, detection,  
3 apprehension or arrest for an offense under this act;

4 (iii) to provide, furnish or render services or assistance  
5 for hindering, obstructing or avoiding investigation, detection,  
6 apprehension or arrest for an offense under this act; or

7 (iv) to commit or omit an act which violates 18 Pa.C.S. Ch.  
8 51 Subch. A (relating to obstructing governmental operations)  
9 with respect to an offense under this act, or to violate 18  
10 Pa.C.S. Ch. 51 Subch. A with respect to an offense under this  
11 act.

12 \* \* \*

13 (m) Any person who violates clause (37) of subsection (a) is  
14 guilty of a felony and upon conviction thereof shall be  
15 sentenced to imprisonment not exceeding ten years or to pay a  
16 fine not exceeding three hundred thousand dollars (\$300,000) or  
17 such larger amount as is sufficient to exhaust the assets  
18 utilized in and the profits obtained from the illegal activity,  
19 or both.

20 Section 3. The act is amended by adding a section to read:

21 Section 13.1. Trafficking Drugs Resulting in Death.--(a)  
22 Except as authorized by this act, any person who manufactures,  
23 delivers or distributes a controlled substance classified in  
24 Schedules I or II or a designer drug in violation of this act to  
25 a person who dies as a result of injecting, inhaling, ingesting  
26 or using the substance is guilty of a felony of the first  
27 degree.

28 (b) It shall not be a defense to a prosecution under this  
29 section that:

30 (1) the person did not act intentionally, knowingly,

1 recklessly or negligently with regard to the risk of causing the  
2 death of another; or

3 (2) the victim contributed to the death by:

4 (i) intentional, knowing, reckless or negligent injection,  
5 inhalation or ingestion of the controlled substance or designer  
6 drug; or

7 (ii) consenting to the administration of the substance by  
8 another.

9 (c) A person who is convicted of a violation of subsection  
10 (a) shall be sentenced to a term of imprisonment not exceeding  
11 twenty years and to pay a fine not exceeding one hundred  
12 thousand dollars (\$100,000) or such larger amount as is  
13 sufficient to exhaust the assets utilized in and the profits  
14 obtained from the illegal activity.

15 (d) A conviction arising under this section shall not merge  
16 with any other conviction under this act or any other statute or  
17 law.

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