

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 705 Session of  
1997

INTRODUCED BY MADIGAN, HELFRICK, ROBBINS, SALVATORE, AFFLERBACH,  
TARTAGLIONE, COSTA, HART, STAPLETON, BELL, WENGER, MUSTO,  
DELP, LEMMOND, RHOADES, BELAN, SLOCUM AND KITCHEN,  
MARCH 13, 1997

REFERRED TO JUDICIARY, MARCH 13, 1997

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, providing for an additional sentence  
3 for trafficking drugs within 1,000 feet of public housing.

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

6 Section 1. Title 18 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a section to read:

8 § 7509. Additional sentence for trafficking drugs within 1,000  
9 feet of public housing.

10 (a) General rule.--A person who is convicted in any court of  
11 this Commonwealth of a violation of section 13(a)(14), (30) or  
12 (37) of the act of April 14, 1972 (P.L.233, No.64), known as The  
13 Controlled Substance, Drug, Device and Cosmetic Act, shall, in  
14 addition to the penalty imposed for violation of The Controlled  
15 Substance, Drug, Device and Cosmetic Act, be sentenced under  
16 subsection (b) where the offense was committed within 1,000 feet  
17 of the real property on which is located a multifamily public

1 housing project.

2 (b) Sentence.--For a first violation, a person shall be  
3 sentenced to a mandatory term of ten years of imprisonment. For  
4 a second violation, a person shall be sentenced under this  
5 section to a term of life imprisonment.

6 (c) Proof at sentencing.--The provisions of this section  
7 shall not be an element of the crime. Notice of the  
8 applicability of this section to the defendant shall not be  
9 required prior to conviction, but reasonable notice of the  
10 Commonwealth's intention to proceed under this section shall be  
11 provided after conviction and before sentencing. The  
12 applicability of this section shall be determined at sentencing.  
13 The court shall consider evidence presented at trial, shall  
14 afford the Commonwealth and the defendant an opportunity to  
15 present necessary additional evidence and shall determine, by a  
16 preponderance of the evidence, if this section is applicable.

17 (d) Authority of court in sentencing.--There shall be no  
18 authority for a court to impose on a defendant to which this  
19 section is applicable a lesser sentence than provided for in  
20 subsection (b), to place the defendant on probation or to  
21 suspend sentence. Nothing in this section shall prevent the  
22 sentencing court from imposing a sentence greater than that  
23 provided in this section. Sentencing guidelines promulgated by  
24 the Pennsylvania Commission on Sentencing shall not supersede  
25 the mandatory sentences provided in this section. Disposition  
26 under section 17 or 18 of The Controlled Substance, Drug, Device  
27 and Cosmetic Act shall not be available to a defendant to which  
28 this section applies.

29 (e) Appeal by Commonwealth.--If a sentencing court refuses  
30 to apply this section where applicable, the Commonwealth shall

1 have the right to appellate review of the action of the  
2 sentencing court. The appellate court shall vacate the sentence  
3 and remand the case to the sentencing court for imposition of a  
4 sentence in accordance with this section if it finds that the  
5 sentence was imposed in violation of this section.

6 (f) Definition.--As used in this section, the term  
7 "multifamily public housing project" means:

8 (1) A structure or structures suitable for dwelling for  
9 50 or more families which are, or prior to acquisition by the  
10 Office of Secretary of Housing and Urban Development were,  
11 assisted or insured under the National Housing Act (48 Stat.  
12 1246, 12 U.S.C. § 1701 et seq.) or were subject to a loan  
13 under section 202 of the Housing Act of 1959 (12 U.S.C. §  
14 1701q) or section 312 of the Housing Act of 1964 (42 U.S.C. §  
15 1452b), or which are acquired by the Office of Secretary of  
16 Housing and Urban Development under any other provision of  
17 Federal Law.

18 (2) A structure or structures suitable for dwelling for  
19 50 or more families which receive or have received any of the  
20 following assistance under Federal Law:

21 (i) Below market interest rate mortgage insurance.

22 (ii) Interest reduction payments.

23 (iii) Rent supplement payments.

24 (iv) Direct loans at below market interest rates.

25 (v) Housing assistance payments.

26 (3) A structure or structures suitable for dwelling for  
27 50 or more families organized under the act of May 28, 1937  
28 (P.L.955, No.265), known as the Housing Authorities Law.

29 Section 2. This act shall apply to offenses committed on or  
30 after the effective date of this act.

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