

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 668 Session of 2009

INTRODUCED BY HESS, PHILLIPS, MARSICO, STERN, BAKER, BARRAR,  
BOYD, BRENNAN, CAUSER, CREIGHTON, DALEY, FLECK, GEIST,  
M. KELLER, MILNE, MOUL, MURT, PAYNE, QUINN, READSHAW, ROCK,  
SIPTROTH AND VULAKOVICH, FEBRUARY 27, 2009

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 27, 2009

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 prohibited acts and penalties.

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

14 Section 1. Section 13(a)(16), (b) and (i) of the act of  
15 April 14, 1972 (P.L.233, No.64), known as The Controlled  
16 Substance, Drug, Device and Cosmetic Act, amended December 14,  
17 1984 (P.L.988, No.200) and December 22, 1989 (P.L.750, No.104),  
18 are amended, subsection (a) is amended by adding a clause and  
19 the section is amended by adding a subsection to read:

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

1 prohibited:

2 \* \* \*

3 (16) Knowingly or intentionally possessing a controlled or  
4 counterfeit substance classified in Schedule III, IV or V by a  
5 person not registered under this act, or a practitioner not  
6 registered or licensed by the appropriate State board, unless  
7 the substance was obtained directly from, or pursuant to, a  
8 valid prescription order or order of a practitioner, or except  
9 as otherwise authorized by this act.

10 (16.1) Knowingly or intentionally possessing a controlled or  
11 counterfeit substance classified in Schedule I or II by a person  
12 not registered under this act, or a practitioner not registered  
13 or licensed by the appropriate State board, unless the substance  
14 was obtained directly from, or pursuant to, a valid prescription  
15 order or order of a practitioner, or except as otherwise  
16 authorized by this act.

17 \* \* \*

18 (b) Any person who violates any of the provisions of clauses  
19 (1) through (11), (13) [and (15)], (15), (16), (17) through (20)  
20 or (37) of subsection (a) shall be guilty of a misdemeanor, and  
21 except for clauses (4), (6), (7), (8), (9) and (19) shall, on  
22 conviction thereof, be sentenced to imprisonment not exceeding  
23 one year or to pay a fine not exceeding five thousand dollars  
24 (\$5,000), or both, and for clauses (4), (6), (7), (8), (9) and  
25 (19) shall, on conviction thereof, be sentenced to imprisonment  
26 not exceeding three years or to pay a fine not exceeding five  
27 thousand dollars (\$5,000), or both; but, if the violation is  
28 committed after a prior conviction of such person for a  
29 violation of this act under this section has become final, such  
30 person shall be sentenced to imprisonment not exceeding three

years or to pay a fine not exceeding twenty-five thousand dollars (\$25,000), or both.

(b.1) Any person who violates clause (16.1) is guilty of a misdemeanor and upon conviction thereof shall be sentenced to imprisonment not exceeding two years, or to pay a fine not exceeding ten thousand dollars (\$10,000), or both, but, if the violation is committed after a prior conviction of such person for a violation of this act under this section has become final, such person shall be sentenced to imprisonment not exceeding three years, or to pay a fine not exceeding twenty-five thousand dollars (\$25,000), or both.

\* \* \*

(i) Any person who violates clauses (32), (33) and (34) of subsection (a) is guilty of a misdemeanor and upon conviction thereof shall be sentenced as follows:

(1) For the first offense, the person shall be sentenced to pay a fine not exceeding two thousand five hundred dollars (\$2,500) or to imprisonment not exceeding one (1) year, or both.

(2) For the second and subsequent offense, the person shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000) or to imprisonment not exceeding two (2) years, or both.

Any person who violates clause (33) by delivering drug paraphernalia to a person under eighteen (18) years of age who is three (3) or more years his junior shall be guilty of the following:

(1) For the first offense, a misdemeanor of the second degree and upon conviction thereof the person shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000) or to imprisonment not exceeding two (2) years, or both.

1     (2) For the second and subsequent offense, a misdemeanor and  
2     upon conviction thereof the person shall be sentenced to pay a  
3     fine not exceeding ten thousand dollars (\$10,000) or to  
4     imprisonment not exceeding three (3) years, or both.

5     \* \* \*

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