

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 310 Session of
1989

INTRODUCED BY ROEBUCK, CALTAGIRONE, JAMES, WILLIAMS, WAMBACH,
MAINE, VROON, PISTELLA, VEON, COLAFELLA, FLEAGLE, MORRIS,
FREEMAN, LUCYK, NOYE, SAURMAN, TRELLO, MARKOSEK, HERSHEY,
ANGSTADT, PERZEL, CAWLEY, FEE, FOX, HARPER, FREIND, BUNT,
OLIVER, KASUNIC, BATTISTO, DeLUCA, SERAFINI, MAIALE,
MICOZZIE, CORRIGAN, CIVERA, J. L. WRIGHT, TIGUE, ROBINSON,
CORNELL, PRESTON, HUGHES, WOZNIAK, J. TAYLOR, SCHEETZ,
GRUPPO, REBER, SALOOM, ACOSTA, RAYMOND, GEIST, HALUSKA,
HAYDEN, THOMAS, KOSINSKI, BISHOP AND RYBAK, FEBRUARY 7, 1989

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 14, 1989

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for mandatory
3 sentencing for convictions for certain drug offenses.

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 and for offenses in the vicinity of schools.

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

1 with intent to deliver of the controlled substance was to a
2 minor, be sentenced to a minimum sentence of at least one year
3 total confinement, notwithstanding any other provision of this
4 title or other statute to the contrary.

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

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

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

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

18 (b.1) Offenses in the vicinity of schools.--Any person 18
19 years of age or older who is convicted in any court of this
20 Commonwealth of a violation of section 13(a)(14) or (30) of The
21 Controlled Substance, Drug, Device and Cosmetic Act shall, if
22 the offense was committed within ~~1,000~~ 1,500 feet of the real <—
23 property on which is located a public, private or parochial
24 school or a college or university or a licensed child-care
25 facility, be sentenced to a minimum sentence of at least three
26 years total confinement, notwithstanding any other provision of
27 this title or other statute to the contrary.

28 (c) Proof at sentencing.--The provisions of this section
29 shall not be an element of the crime. Notice of the
30 applicability of this section to the defendant shall not be

1 required prior to conviction, but reasonable notice of the
2 Commonwealth's intention to proceed under this section shall be
3 provided after conviction and before sentencing. The
4 applicability of this section shall be determined at sentencing.
5 The court shall consider evidence presented at trial, shall
6 afford the Commonwealth and the defendant an opportunity to
7 present necessary additional evidence, and shall determine, by a
8 preponderance of the evidence, if this section is applicable.

9 (d) Authority of court in sentencing.--There shall be no
10 authority for a court to impose on a defendant to which this
11 section is applicable a lesser sentence than provided for in
12 [subsection (a)] this section, to place the defendant on
13 probation or to suspend sentence. Nothing in this section shall
14 prevent the sentencing court from imposing a sentence greater
15 than that provided in this section. Sentencing guidelines
16 promulgated by the Pennsylvania Commission on Sentencing shall
17 not supersede the mandatory sentences provided in this section.
18 Disposition under section 17 or 18 of The Controlled Substance,
19 Drug, Device and Cosmetic Act shall not be available to a
20 defendant to which this section applies.

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

28 (f) Forfeiture.--Assets against which a forfeiture petition
29 has been filed and is pending or against which the Commonwealth
30 has indicated an intention to file a forfeiture petition shall

1 not be subject to a fine under this section.

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

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