

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, RYBAK AND HOWLETT,
FEBRUARY 7, 1989

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 11, 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 1,500 feet of the real property
23 on which is located a public, private or parochial school or a
24 college or university; A PLAYGROUND, VIDEO ARCADE, OR COMMUNITY <—
25 RECREATIONAL CENTER; or a licensed child-care facility, be
26 sentenced to a minimum sentence of at least three years total
27 confinement, notwithstanding any other provision of this title
28 or other statute to the contrary.

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

1 applicability of this section to the defendant shall not be
2 required prior to conviction, but reasonable notice of the
3 Commonwealth's intention to proceed under this section shall be
4 provided after conviction and before sentencing. The
5 applicability of this section shall be determined at sentencing.
6 The court shall consider evidence presented at trial, shall
7 afford the Commonwealth and the defendant an opportunity to
8 present necessary additional evidence, and shall determine, by a
9 preponderance of the evidence, if this section is applicable.

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

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

29 (f) Forfeiture.--Assets against which a forfeiture petition
30 has been filed and is pending or against which the Commonwealth

1 has indicated an intention to file a forfeiture petition shall
2 not be subject to a fine under this section.

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

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