

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 135 Session of  
1997INTRODUCED BY ULIANA, WENGER, BRIGHTBILL, GERLACH, TOMLINSON,  
HART, MURPHY, KASUNIC AND SLOCUM, JANUARY 21, 1997

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, FEBRUARY 4, 1997

## AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, providing ~~for mandatory minimum A~~ <—  
3 penalty for possession of a controlled substance by an  
4 inmate.

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

7 Section 1. Section 5123(a.2) of Title 18 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 5123. Contraband.

10 \* \* \*

11 (a.2) Possession of controlled substance contraband by  
12 inmate prohibited.--A prisoner or inmate commits a [misdemeanor  
13 of the first degree] felony of the second degree if he  
14 unlawfully has in his possession or under his control any  
15 controlled substance in violation of section 13(a)(16) of The  
16 Controlled Substance, Drug, Device and Cosmetic Act. For  
17 purposes of this subsection, no amount shall be deemed de  
18 minimis. ~~Any inmate convicted of a violation of this subsection~~ <—

~~shall be sentenced to a minimum sentence of at least two years  
of total confinement notwithstanding any other provision of this  
title or any other statute to the contrary. Nothing in this  
subsection shall prevent the sentencing court from imposing a  
sentence greater than that provided in this subsection, up to  
the maximum penalty prescribed by this title for a felony of the  
second degree. There shall be no authority in any court to  
impose on an offender to which this subsection is applicable any  
lesser sentence than provided for in this subsection or to place  
such offender on probation or to suspend sentence. Sentencing  
guidelines promulgated by the Pennsylvania Commission on  
Sentencing shall not supersede the mandatory sentences provided  
in this subsection. If a sentencing court refuses to apply this  
subsection where applicable, the Commonwealth shall have the  
right to appellate review of the action of the sentencing court.  
The appellate court shall vacate the sentence and remand the  
case to the sentencing court for imposition of a sentence in  
accordance with this subsection if it finds that the sentence  
was imposed in violation of this subsection.~~

~~\* \* \*~~

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