

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 19

Session of
2007

INTRODUCED BY D. EVANS, GERBER, CALTAGIRONE, MYERS, STURLA,
WHEATLEY, WILLIAMS, BENNINGTON, BISHOP, COHEN, CRUZ, CURRY,
FRANKEL, GALLOWAY, JOSEPHS, KIRKLAND, LEACH, M. O'BRIEN,
PASHINSKI AND ROEBUCK, JANUARY 30, 2007

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 30, 2007

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for serious drug trafficking
3 and violent repeat offenders not to possess, use,
4 manufacture, control, sell or transfer firearms.

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

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

9 § 6105.2. Serious drug trafficking or violent repeat offenders
10 not to possess, use, manufacture, control, sell or
11 transfer firearms.

12 (a) Offense defined.--

13 (1) A person who has two prior convictions for
14 qualifying criminal offenses arising from separate criminal
15 transactions and who possesses, uses, manufactures, controls,
16 sells or transfers a firearm in this Commonwealth commits a
17 felony of the second degree.

18 (2) A person who has three or more prior convictions for

1 qualifying criminal offenses arising from separate criminal
2 transactions and who possesses, uses, manufactures, controls,
3 sells or transfers a firearm in this Commonwealth commits a
4 felony of the first degree.

5 (b) Mandatory minimum sentence.--

6 (1) A person convicted under subsection (a)(1) shall be
7 sentenced to a minimum term of at least five years total
8 confinement.

9 (2) A person convicted under subsection (a)(2) shall be
10 sentenced to a minimum term of at least ten years total
11 confinement.

12 (c) Notice.--Reasonable notice of the Commonwealth's
13 intention to proceed under subsection (b) shall be provided to
14 the defendant before sentencing.

15 (d) Authority of court in sentencing.--There shall be no
16 authority in any court to impose on an offender to which this
17 section is applicable a lesser sentence than provided for in
18 this section or to place the offender on probation, parole, work
19 release or prerelease or to suspend sentence. Nothing in this
20 section shall prevent the sentencing court from imposing a
21 sentence greater than provided in this section. Sentencing
22 guidelines promulgated by the Pennsylvania Commission on
23 Sentencing shall not supersede the mandatory sentences provided
24 in this section.

25 (e) Appeal by Commonwealth.--If a sentencing court refuses
26 to apply the sentencing provisions of subsection (b) where
27 applicable, the Commonwealth shall have the right to appellate
28 review of the action of the sentencing court. The appellate
29 court shall vacate the sentence and remand the case to the
30 sentencing court for imposition of a sentence in accordance with

1 subsection (b) if it finds that the sentence was imposed in
2 violation of subsection (b).

3 (f) Definitions.--As used in this section, the following
4 words and phrases shall have the meanings given to them in this
5 subsection:

6 "Firearm." Any weapons as set forth in section 6105(i)
7 (relating to persons not to possess, use, manufacture, control,
8 sell or transfer firearms).

9 "Prior conviction." A plea of guilty, a plea of nolo
10 contendere or a finding of guilt by a court entered before the
11 commission of the current offense under subsection (a), whether
12 or not sentence has been imposed or disposition ordered for the
13 prior offense.

14 "Qualifying criminal offense." A serious crime of violence
15 or serious drug trafficking offense.

16 "Serious crime of violence." Any offense set forth in 42
17 Pa.C.S. § 9714(g) (relating to sentences for second and
18 subsequent offenses).

19 "Serious drug trafficking offense." Any drug trafficking
20 offense subject to the provisions of section 6314 (relating to
21 sentencing and penalties for trafficking drugs to minors) or
22 7508 (relating to drug trafficking sentencing and penalties), or
23 an equivalent crime in another jurisdiction.

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