
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 865 Session of
2007

INTRODUCED BY HESS, STERN, PHILLIPS, BAKER, BOYD, CAPPELLI, COX,
FLECK, M. KELLER, KOTIK, MAHONEY, MARSICO, MENSCH, MURT,
K. SMITH, TRUE AND VULAKOVICH, MARCH 22, 2007

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 22, 2007

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
22 prohibited:

1 * * *

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

9 (16.1) Knowingly or intentionally possessing a controlled or
10 counterfeit substance classified in Schedule I or II by a person
11 not registered under this act, or a practitioner not registered
12 or licensed by the appropriate State board, unless the substance
13 was obtained directly from, or pursuant to, a valid prescription
14 order or order of a practitioner, or except as otherwise
15 authorized by this act.

16 * * *

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

1 dollars (\$25,000), or both.

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

11 * * *

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

15 (1) For the first offense, the person shall be sentenced
16 to pay a fine not exceeding two thousand five hundred dollars
17 (\$2,500) or to imprisonment not exceeding one (1) year, or
18 both.

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

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

27 (1) For the first offense, a misdemeanor of the second
28 degree and upon conviction thereof the person shall be
29 sentenced to pay a fine not exceeding five thousand dollars
30 (\$5,000) or to imprisonment not exceeding two (2) years, or

1 both.

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

6 * * *

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