
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 337 Session of
2007

INTRODUCED BY BROWNE, BOSCOLA, RAFFERTY, COSTA AND WOZNIAK,
MARCH 12, 2007

REFERRED TO JUDICIARY, MARCH 12, 2007

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 drug nuisances; providing for drug nuisance abatement; and
4 prescribing penalties.

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

7 Section 1. Subchapter H of Chapter 83 of Title 42 of the
8 Pennsylvania Consolidated Statutes is repealed:

9 [SUBCHAPTER H
10 DRUG NUISANCES

11 Sec.

12 8381. Short title of subchapter.

13 8382. Definitions.

14 8383. Action to abate.

15 8384. Complaint.

16 8385. Service of original process.

17 8386. Preliminary injunction.

18 8387. Protection of witnesses.

1 8388. Security.

2 8389. Judgment and remedies.

3 8390. Violation of injunctions or abatement order.

4 8391. Release and cancellation.

5 8392. Severability.

6 § 8381. Short title of subchapter.

7 This subchapter shall be known and may be cited as the Drug
8 Nuisance Law.

9 § 8382. Definitions.

10 The following words and phrases when used in this subchapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Community-based organization." Any group affiliated with or
14 organized for the benefit of one or more communities or
15 neighborhoods, or any group organized to benefit the quality of
16 life in a residential area.

17 "Controlled substance act." The act of April 14, 1972
18 (P.L.233, No.64), known as The Controlled Substance, Drug,
19 Device and Cosmetic Act.

20 "Drug-related nuisance." The use of any property, in whole
21 or in part, which facilitates or is intended to facilitate any
22 violation of the act of April 14, 1972 (P.L.233, No.64), known
23 as The Controlled Substance, Drug, Device and Cosmetic Act, or
24 similar act of the United States or any other state.

25 "Manufacture" or "manufacturing." The production,
26 preparation, propagation, compounding, conversion or processing
27 of a controlled substance, other drug or device or the packaging
28 or repackaging of such substance or article, or the labeling or
29 relabeling of the commercial container of such substance or
30 article, but does not include the activities of a practitioner

1 who, as an incident to his administration or dispensing such
2 substance or article in the course of his professional practice,
3 prepares, compounds, packages or labels such substance or
4 article. The term "manufacturer" means a person who manufactures
5 a controlled substance, other drug or device.

6 "Owner." An individual, corporation, partnership, trust
7 association, joint venture or any other business entity in whom
8 is vested all or any part of the title to the property alleged
9 to be a drug-related nuisance.

10 "Property." Any tangible or intangible property, including
11 an interest in any leasehold, license or real estate, such as
12 any house, apartment building, condominium, cooperative, office
13 building, store, restaurant, tavern, nightclub or warehouse, and
14 the land extending to the boundaries of the lot upon which the
15 structure is situated and anything growing on, affixed or found
16 on the land.

17 "Tenant." A person who resides in or occupies real property
18 belonging to another person pursuant to a lease agreement or
19 common law tenancy.

20 § 8383. Action to abate.

21 Wherever there is reason to believe that a drug-related
22 nuisance exists, the district attorney, the Attorney General, if
23 requested by a district attorney, the solicitor for the county
24 or municipality, a resident within 1,000 feet of the property,
25 including a tenant of the property, the owner of property or any
26 community-based organization may file an action in the court of
27 common pleas to abate, enjoin and prevent the drug-related
28 nuisance. Such actions shall be commenced by the filing of a
29 complaint alleging the facts constituting the drug-related
30 nuisance.

1 § 8384. Complaint.

2 (a) Adverse impact.--The complaint or an affidavit attached
3 thereto shall describe the adverse impact associated with the
4 drug nuisance upon the surrounding neighborhood. Adverse impact
5 includes, without limitation, the presence of any one or more of
6 the following conditions:

7 (1) Diminished property value.

8 (2) Increased fear of residents to walk through and in
9 public areas, including sidewalks and streets, increased
10 volume of vehicular and pedestrian traffic to and from the
11 property.

12 (3) An increase in the number of ambulance or police
13 calls to the property which are related to the use of drugs
14 or to violence stemming from illegal activity.

15 (4) Increased noise, bothersome solicitors or approaches
16 by persons wishing to sell drugs or solicit the donation of
17 money on or near the property.

18 (5) The display of dangerous weapons on or near the
19 property.

20 (6) The discharge of firearms on or near the property.

21 (7) Search warrants served on tenants or occupants of
22 the property which resulted in the seizure of drugs.

23 (8) Investigative purchases of drugs on or near the
24 property by law enforcement officers.

25 (9) Arrests of person on or near the property for
26 violation of criminal laws.

27 (10) Housing code violations relating to the property.

28 (11) Health code violations relating to the property.

29 (12) Accumulated trash and refuse in common areas on or
30 adjacent to the property.

1 (13) An unsecured entryway on the property.

2 (b) Attempts to notify owner.--The complaint shall contain a
3 description of what attempts, if any, have been made by the
4 plaintiff or any other person or entity to notify the owner of
5 the property of the drug-related nuisance or resulting adverse
6 impact.

7 § 8385. Service of original process.

8 (a) General rule.--A copy of the summons and complaint shall
9 be served upon the defendant at least five business days prior
10 to the first hearing in the action. Service of original process
11 shall be made in accordance with the Pennsylvania Rules of Civil
12 Procedure.

13 (b) Posting at property.--If personal service cannot be
14 made, service may be made by posting the papers at the property.
15 If service is made by posting at the property, a copy of the
16 summons and complaint shall be mailed registered mail to the
17 last known mail address, if any, of the defendant. Actual
18 receipt of the registered mail shall not be required for
19 service.

20 § 8386. Preliminary injunction.

21 Upon the filing of a motion for preliminary injunction to
22 abate the drug-related nuisance, the plaintiff shall be entitled
23 to a hearing on the motion for preliminary injunction within 10
24 business days of the filing. If it shall be made to appear, by
25 affidavit or otherwise, that there is a substantial likelihood
26 that the plaintiff will show at trial, by a preponderance of the
27 evidence, that drug-related nuisance exists, the court shall
28 enter an order preliminarily enjoining the drug-related nuisance
29 and granting such other relief as the court may deem to be
30 appropriate, including those remedies provided for in section

1 8389 (relating to judgment and remedies). Whenever possible, the
2 court shall order the trial of the action on the merits advanced
3 and consolidated with the hearing of the motion. This section
4 shall not be construed to prohibit the application for or the
5 granting of a temporary restraining order.

6 § 8387. Protection of witnesses.

7 At the time of an application for the issuance of a
8 restraining order or an injunction if proof of the existence of
9 the drug-related nuisance depends, in whole or part, upon the
10 affidavits of witnesses who are not law enforcement officers,
11 upon a showing of prior threats of violence or acts of violence
12 by any defendant or other person alleged to be involved in the
13 drug-related nuisance, the court may issue orders to protect
14 those witnesses, providing for nondisclosure of the name,
15 address or any other identifying information pertaining to the
16 witnesses, and such other and further relief as the court may
17 deem appropriate.

18 § 8388. Security.

19 No bond shall be required to issue a preliminary injunction
20 or special injunction sought by the district attorney or the
21 solicitor for the county or municipality. A bond in an amount
22 fixed and with security approved by the court may be required to
23 issue a preliminary injunction or special injunction when the
24 plaintiff is not the district attorney, the Attorney General or
25 a solicitor for the county or municipality. Where such relief is
26 issued after an evidentiary hearing at which witnesses are
27 subject to cross examination, the court shall not require a bond
28 in excess of \$500.

29 § 8389. Judgment and remedies.

30 (a) Burden of proof.--The plaintiff must establish that a

1 drug-related nuisance exists by a preponderance of the evidence.

2 (b) Relief.--If the existence of a drug-related nuisance is
3 found, the judgment may include actual damages and a temporary
4 or permanent injunction to restrain, abate and prevent the
5 continuance or recurrence of the drug-related nuisance. The
6 court may grant declaratory relief, mandatory orders or any
7 other relief deemed necessary to accomplish the purposes of the
8 injunction or order and enforce the same, and the court may
9 retain jurisdiction of the case for the purpose of enforcing its
10 orders.

11 (c) Additional remedies.--If the existence of a drug-related
12 nuisance is found, the court shall have the power additionally
13 to fashion any one or more of the following remedies:

14 (1) Assess costs of the action against the defendant.

15 (2) When a governmental agency is a plaintiff in the
16 action, assess a civil penalty against the defendant of not
17 less than \$500 nor more than \$10,000.

18 (3) Order the owner to clean up the property and make
19 repairs upon the property.

20 (4) Suspend or revoke any business, professional,
21 operational or liquor license.

22 (5) Order the owner to make additional reasonable
23 expenditures upon the property, including, but not limited
24 to, installing secure locks on doors, increasing lighting in
25 common areas and using videotaped surveillance of the
26 property and adjacent alleyways, sidewalks and parking lots.

27 (6) Order all rental income from the property to be
28 placed in an escrow account with the court for up to 90 days
29 or until the drug-related nuisance is abated.

30 (7) Order all rental income for the property transferred

1 to a trustee, to be appointed by the court, who shall be
2 empowered to use the rental income to make reasonable
3 expenditures upon the property in order to abate the drug-
4 related nuisance.

5 (8) Order the suspension of any State, city or local
6 governmental subsidies payable to the owners of the property,
7 such as tenant assistance payments to landlords, until the
8 nuisance is abated.

9 (9) Allow the plaintiff to seal the property with the
10 cost of sealing payable by the defendant.

11 (10) Order the defendant to pay the plaintiff the cost
12 of the suit, including reasonable attorney fees.

13 (d) Factors to consider.--In making an order under
14 subsection (c), the court shall consider, among others, the
15 following factors:

16 (1) The number of people residing at the property.

17 (2) The proximity of the property to other residential
18 structures.

19 (3) The number of times the property has been cited for
20 housing code or health code violations.

21 (4) The number of times the owner has been notified of
22 drug-related problems at the property.

23 (5) The extent and duration of the drug-related nuisance
24 at the time of the order.

25 (6) Prior efforts or lack of effort by the defendant to
26 abate the drug-related nuisance.

27 (7) The availability of alternative housing for tenants
28 of the building.

29 (8) The extent of concern about the drug-related
30 nuisance that has been expressed by nearby residents or

1 visitors to the area.

2 (9) The owner's involvement in the drug-related
3 nuisance.

4 (10) The owner's involvement in other drug-related
5 nuisances.

6 § 8390. Violation of injunctions or abatement order.

7 (a) Contempt.--A violation of any court order issued under
8 this subchapter is punishable as a contempt of court by a fine
9 of not less than \$500 nor more than \$75,000. The court may order
10 the sheriff or other proper officer of any county to take into
11 custody and commit to jail any person fined for a contempt until
12 the fine shall be paid or discharged. If unable to pay the fine,
13 the person may be committed to jail by the court for not more
14 than three months. Evidence concerning the duration and
15 repetitive nature of the violations shall be considered by the
16 court in determining the contempt penalties.

17 (b) Additional orders.--In addition, upon finding that a
18 defendant has willfully violated a court order issued under this
19 subchapter, the court shall be also empowered to issue any
20 additional orders necessary to abate this drug-related nuisance.

21 § 8391. Release and cancellation.

22 (a) No knowledge and abatement.--The court may suspend the
23 effectiveness of an order of abatement for no more than 90 days
24 if the owner of the property establishes that he had no
25 knowledge of the drug-related nuisance and could not reasonably
26 be expected to have such knowledge and the owner avers that he
27 will immediately undertake specified measures to abate the
28 nuisance and prevent it from being a drug-related nuisance for
29 the following two-year period.

30 (b) Fines and bond.--The courts shall cancel the order of

1 abatement if the owner of the property pays all fines and liens
2 against the property, satisfies the court that the drug-related
3 nuisance has been abated for the past 90 days, corrects all
4 housing code and health code violations and posts a bond in an
5 amount to be determined by the court, which will be immediately
6 forfeitable if the drug-related nuisance recurs during the
7 following one-year period.

8 § 8392. Severability.

9 If any provision of this subchapter or its application to any
10 person or circumstance is held invalid or unenforceable, the
11 remainder of this subchapter or the application of the provision
12 to other persons or circumstances shall not be affected.]

13 Section 2. Chapter 83 of Title 42 is amended by adding a
14 subchapter to read:

15 SUBCHAPTER H

16 DRUG NUISANCE ABATEMENT

17 Sec.

18 8381. Scope of subchapter.

19 8382. Definitions.

20 8383. Nature of actions and jurisdiction.

21 8384. Standard of proof.

22 8385. Parties.

23 8386. Notice to interested parties.

24 8387. Substitution of plaintiff.

25 8388. Continuances.

26 8389. Issuance of preliminary orders.

27 8390. Enforcement of preliminary orders.

28 8391. Notification and provision of treatment resources.

29 8392. Premises involving multiple residences or businesses.

30 8393. Vacating or modifying closing order.

- 1 8394. Permanent injunction and other relief.
2 8395. Closure.
3 8396. Penalties.
4 8397. Settlements.
5 8398. Recovery of costs.
6 8399. Liens.
7 8399.1. Contempt.
8 8399.2. Release of premises upon inspection or repair.
9 8399.3. Cumulative remedies.
10 8399.4. Admissibility of evidence.
11 8399.5. Relationship to criminal proceedings.
12 8399.6. Liability for damage to closed properties.
13 8399.7. Civil immunity.
14 8399.8. Civil action.
15 8399.9. Use of property for treatment and other purposes.

16 § 8381. Scope of subchapter.

17 This subchapter relates to drug nuisance abatement.

18 § 8382. Definitions.

19 The following words and phrases when used in this subchapter
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Controlled substance." The term shall have the same
23 meaning as the term is used in the act of April 14, 1972
24 (P.L.233, No.64), known as The Controlled Substance, Drug,
25 Device and Cosmetic Act.

26 "Distribution." The term shall have the same meaning as the
27 term is used in the act of April 14, 1972 (P.L.233, No.64),
28 known as The Controlled Substance, Drug, Device and Cosmetic
29 Act.

30 "Drug distribution event." The unlawful manufacture,

1 distribution, sale or possession with intent to distribute, sell
2 or deliver a controlled substance or an unlawful attempt or
3 conspiracy to commit such an act.

4 "Drug nuisance."

5 (1) a site which was used or is being used in
6 furtherance of or to promote or facilitate the commission of
7 a drug distribution event; or

8 (2) two or more persons who, on two or more separate
9 occasions within one year prior to the commencement of a
10 civil action under this subchapter, did not reside in or upon
11 a site gathered for the principal purpose of unlawfully
12 investigating, injecting, inhaling or otherwise using a
13 controlled substance, regardless of whether a controlled
14 substance was unlawfully distributed or purchased at the
15 location.

16 "Expedited Eviction of Drug Traffickers Act." The act of
17 October 11, 1995 (1st Sp.Sess., P.L.1066, No.23), known as the
18 Expedited Eviction of Drug Traffickers Act.

19 "Manufacture." The term shall have the same meaning as the
20 term is used in the act of April 14, 1972 (P.L.233, No.64),
21 known as The Controlled Substance, Drug, Device and Cosmetic
22 Act.

23 "Neighborhood or community organization." A group, whether
24 or not incorporated, which consists of persons who reside or
25 work at or in a building, complex of buildings, street, block or
26 neighborhood, any part of which is located on or within 1,000
27 feet of premises alleged to be a drug nuisance, which has the
28 purpose of benefiting the quality of life in its neighborhood or
29 community, including treatment programs.

30 "Owner." A person in whom is vested the ownership and title

1 of property and who is the owner of record. The term shall
2 include a Federal, State, city or local government entity.

3 "Person." A natural person, corporation, association,
4 partnership, trustee, lessee, agent, assignee, enterprise,
5 governmental entity, and any other legal entity or group of
6 individuals associated in fact which is capable of holding a
7 legal or beneficial interest in property.

8 "Possession with intent to sell or distribute." The term
9 shall have the same meaning as the term is used in the act of
10 April 14, 1972 (P.L.233, No.64), known as The Controlled
11 Substance, Drug, Device and Cosmetic Act.

12 "Sale." The term shall have the same meaning as the term is
13 used in the act of April 14, 1972 (P.L.233, No.64), known as The
14 Controlled Substance, Drug, Device and Cosmetic Act.

15 § 8383. Nature of actions and jurisdiction.

16 The causes of action established in this subchapter are civil
17 actions to enjoin the commission of drug distribution events, to
18 close down and physically secure premises or portions thereof
19 which constitute drug nuisances and otherwise abate such drug
20 nuisances and to impose civil penalties. These actions shall be
21 brought in the court of common pleas, which shall have
22 jurisdiction to issue temporary, preliminary or permanent
23 injunctive or other equitable relief, regardless of whether an
24 adequate remedy exists at law.

25 § 8384. Standard of proof.

26 Except as may otherwise be expressly provided, civil causes
27 of action established in this subchapter shall be proven by a
28 preponderance of the evidence.

29 § 8385. Parties.

30 (a) Who may bring actions.--A civil action for temporary,

1 preliminary or permanent injunctive relief or penalties under
2 this subchapter may be brought by:

3 (1) the solicitor for a State, county or municipal
4 governing body which has jurisdiction over the location at
5 which an alleged drug nuisance exists;

6 (2) the Attorney General and the district attorney
7 having jurisdiction where the alleged drug nuisance exists;

8 (3) a neighborhood or community organization; or

9 (4) a person who resides, is employed full-time or part-
10 time at the site of business or owns or operates a business
11 on or within 1,000 feet of an alleged drug nuisance.

12 (b) Defendants to the action.--

13 (1) A civil action under this subchapter shall be
14 brought against the owner of, and may also be brought against
15 a person within the jurisdiction of the court who is a
16 landlord, tenant, manager, operator or supervisor of,
17 premises alleged to be a drug nuisance.

18 (2) The court shall have in rem jurisdiction over the
19 premises alleged to be a drug nuisance.

20 (3) The complaint initiating a civil action under this
21 subchapter shall name as a defendant the premises involved,
22 describing it by block, lot number and street address or by
23 such other means as are appropriate under the circumstances.

24 (c) Protections against frivolous actions and sanctions for
25 unfounded or unwarranted pleadings, motions or other actions.--

26 (1) In any action brought under this subchapter, every
27 pleading, motion and other document shall be signed by at
28 least one attorney of record in the attorney's own name, and
29 the attorney's address shall be stated. The signature of an
30 attorney constitutes a certification that the signer has read

1 the pleading, motion or other paper; that to the best of the
2 signer's knowledge, information and belief, formed after
3 reasonable inquiry, it is well grounded in fact and is
4 warranted under existing law, or a good faith argument for
5 the extension, modification or reversal of existing law; and
6 that it is not interposed for any improper purpose, such as
7 to harass or to cause unnecessary delay or needless increase
8 in the cost of litigation.

9 (2) If a pleading, motion or other document is not
10 signed, it shall be stricken unless it is signed promptly
11 after the omission is called to the attention of the pleader
12 or movant.

13 (3) If a pleading, motion or other document is signed in
14 violation of this subchapter, the court, upon motion or upon
15 its own initiative, shall impose upon the person who signed
16 it or a represented party, or both, an appropriate sanction,
17 which may include an order to pay to the other party or
18 parties the amount of the reasonable expenses incurred
19 because of the filing of the pleading, motion or other
20 document, including a reasonable attorney fee.

21 (d) No bond or security required.--No person or entity shall
22 be required to post a bond or security as a condition of
23 initiating or prosecuting an action brought under this
24 subchapter.

25 (e) Ready availability of ownership information to potential
26 plaintiffs.--A person or entity that, upon an oath in writing,
27 states the affiant is preparing to initiate an action under this
28 subchapter may request that the recorder of deeds promptly
29 provide the name and address of all owners of the premises as
30 reflected upon the current county records, without charge.

1 (f) Presumption of ownership.--The person in whose name the
2 premises involved are recorded in the county recorder of deeds
3 office shall be presumed to be the owner.

4 (g) Presumption of agency.--Whenever there is evidence that
5 a person was the manager, operator or supervisor or was in any
6 other way in charge of the premises involved at the time conduct
7 constituting the drug nuisance is alleged to have been
8 committed, the evidence shall be rebuttably presumptive that the
9 person was an agent or employee of the owner, landlord or lessee
10 of the premises.

11 § 8386. Notice to interested parties.

12 (a) Notice to defendants.--

13 (1) A complaint initiating an action under this
14 subchapter shall be personally served and notice to all in
15 personam defendants shall be provided in the same manner as
16 service of complaints in civil actions. After filing an
17 affidavit that personal service cannot be had after due
18 diligence on one or more in personam defendants within 20
19 days after the filing of the complaint, the plaintiff may:

20 (i) Cause a copy of the complaint to be mailed to
21 the defendant by certified mail, restricted delivery,
22 return receipt to the clerk of court requested.

23 (ii) Cause a copy of the complaint to be affixed
24 conspicuously to the premises alleged to be a drug
25 nuisance.

26 (2) Service shall be deemed completed five days after
27 filing with the court proof of the mailing and an affidavit
28 that a copy of the complaint has been affixed to the
29 premises.

30 (b) Notice to affected tenants, residents and guests.--All

1 tenants or residents of any premises used in whole or in part as
2 a business, home, residence or dwelling, other than transient
3 guests of a guest house, hotel or motel, who may be affected by
4 any order issued under this subchapter shall be provided such
5 reasonable notice as shall be ordered by the court and shall be
6 afforded opportunity to be heard at all hearings.

7 (c) Lis pendens.--Notice of lis pendens shall be filed
8 concurrently with the commencement of the action in the same
9 manner as is generally provided for by law or court rule.

10 § 8387. Substitution of plaintiff.

11 When a court determines in its discretion that the plaintiff
12 bringing an action under this subchapter has failed to prosecute
13 the matter with reasonable diligence, the court may substitute
14 as plaintiff a person or entity that consents thereto, provided
15 that the person or entity would have been authorized under this
16 subchapter to initiate the action.

17 § 8388. Continuances.

18 (a) General policy.--An action for injunctive relief or
19 civil penalties brought under this subchapter shall be heard by
20 the court on an expedited and priority basis.

21 (b) Continuances.--The court may not grant a continuance
22 except for extraordinary and compelling reasons or on the
23 application of a criminal prosecuting agency for good cause
24 shown.

25 (c) Stay pending criminal proceedings.--The court may not
26 stay the civil proceedings pending the disposition of any
27 related criminal proceeding except for extraordinary and
28 compelling reasons or except upon the application of a criminal
29 prosecuting agency for good cause shown.

30 (d) Dismissal of actions for want of prosecution.--

1 (1) The court may not dismiss an action brought under
2 this subchapter for want of prosecution unless the court is
3 clearly convinced that the interests of justice require
4 dismissal.

5 (2) In that event and upon such a finding, the dismissal
6 shall be without prejudice to the right of the plaintiff or
7 any other person or entity authorized to bring an action
8 under this subchapter to reinstitute the action.

9 § 8389. Issuance of preliminary orders.

10 (a) General rule.--A person or entity authorized to bring a
11 civil action for injunctive relief under this subchapter may
12 file a complaint seeking preliminary injunctive relief by
13 alleging that the premises constitute a drug nuisance. Upon
14 receipt of the complaint, the court shall order a preliminary
15 hearing which shall not be later than 30 days from the date of
16 the order. Service shall be made upon the owners of the premises
17 under section 8386(a) (relating to notice to interested parties)
18 not less than five days prior to the hearing. In the event that
19 service cannot be completed in time to give the owners the
20 minimum notice required under this subchapter, the court may set
21 a new hearing date.

22 (b) Preliminary closing order.--

23 (1) If the court finds it a substantial likelihood that
24 the plaintiff by a preponderance of the evidence will be able
25 to establish at trial:

26 (i) that the premises constitute a drug nuisance;

27 (ii) that, at least 30 days prior to the filing of
28 the complaint seeking preliminary injunctive relief, the
29 owner or the owner's agent had been notified by certified
30 mail of the drug nuisance; and

1 (iii) that the public health, safety or welfare
2 immediately requires a preliminary closing order,
3 the court shall issue an order to close the premises involved
4 or the portions appropriate under the circumstances.

5 (2) The order shall direct actions necessary to
6 physically secure the premises, or appropriate portions
7 thereof, against use for any purpose. The preliminary closing
8 order shall also restrain the defendant and all persons from
9 removing or in any manner interfering with the furniture,
10 fixtures and movable or personal property located on or
11 within the premises constituting the drug nuisance.

12 (c) Other preliminary relief.--

13 (1) If the court finds that the premises constitute a
14 drug nuisance but that immediate closing of the premises is
15 not required under subsection (b), the court may enjoin the
16 drug nuisance and issue an order restraining the defendants
17 and all other persons conducting, maintaining, aiding,
18 abetting or permitting drug distribution events constituting
19 the drug nuisance.

20 (2) The court may not require a plaintiff to show that
21 the plaintiff has no adequate remedy at law or will suffer
22 irreparable harm nor any other common law element applicable
23 to a preliminary injunction to obtain a preliminary closing
24 order.

25 (3) The court may issue an order appointing a temporary
26 receiver to manage or operate the premises. A temporary
27 receiver shall have the powers and duties specifically
28 authorized under section 8394(6) (relating to permanent
29 injunction and other relief).

30 (d) Admissible evidence.--In determining whether the public

1 health, safety or welfare immediately requires a preliminary
2 closing order, the court shall consider any relevant evidence
3 presented concerning attendant circumstances, including, but not
4 limited to:

5 (1) whether the alleged drug distribution events or
6 related activities involve the use of threat of violence at
7 or near the site alleged to be a drug nuisance;

8 (2) whether the alleged drug distribution events in any
9 way involve distribution or sale of a controlled substance by
10 or to a juvenile; or

11 (3) whether the site alleged to be a drug nuisance is
12 located within a drug-free zone under 18 Pa.C.S. § 6314
13 (relating to sentencing and penalties for trafficking drugs
14 to minors).

15 § 8390. Enforcement of preliminary orders.

16 (a) Entities enforcing orders.--Upon order of the court,
17 preliminary restraining and closing orders shall be enforced by
18 the sheriff, local police department, or, if no local police are
19 available, by the Pennsylvania State Police.

20 (b) Inventory of personal property.--The officers serving a
21 temporary closing or temporary restraining order shall file with
22 the court an inventory of the personal property situated in or
23 on the premises closed and shall be allowed to enter the
24 premises to make the inventory. The inventory shall provide an
25 accurate representation of the personal property subject to the
26 inventory, including, but not limited to, photographing of
27 furniture, fixtures and other personal or movable property.

28 (c) Vacation of premises.--The officers serving a
29 preliminary closing order shall, upon service of the order,
30 demand all persons present in the premises closed to vacate the

1 premises, or portion thereof, unless the court orders otherwise.
2 The premises or portion thereof shall be securely locked and all
3 keys shall be held by the agency closing the premises.

4 (d) Posting of court order.--

5 (1) Upon service of a preliminary closing order or a
6 preliminary restraining order, the officer shall post a copy
7 of the order in a conspicuous place or upon one or more of
8 the principal doors at entrances of the premises.

9 (2) Where a preliminary closing order has been granted,
10 the officers shall affix, in a conspicuous place or upon one
11 or more of the principal entrances of the premises, a printed
12 notice that the entire premises or a portion thereof has been
13 closed by court order, which notice shall contain the legend
14 "Closed by Court Order" in block lettering of sufficient size
15 to be observed by anyone intending or likely to enter the
16 premises. The printed notice shall also include the date of
17 the order, the court which issued the order and the name of
18 the office or agency posting the notice.

19 (3) Where a preliminary restraining order has been
20 granted, the officer shall affix, in the same manner, a
21 notice similar to the notice provided for in relation to a
22 preliminary closing order except that the notice shall state
23 that certain activity is prohibited by court order and the
24 removal of furniture, fixtures or other personal or movable
25 property is prohibited by court order.

26 (e) Mutilation or removal of posted court order.--A person
27 who without lawful authority mutilates or removes an order or
28 notice posted under the provisions of subsection (d) commits a
29 misdemeanor of the third degree.

30 (f) Violation of court order.--A person who knowingly or

1 purposely violates a preliminary restraining order or closing
2 order issued under this subchapter shall be subject to civil
3 contempt, as well as punishment for criminal contempt, under 18
4 Pa.C.S. §§ 4955 (relating to violation of orders) and 5101
5 (relating to obstructing administration of law or other
6 governmental function).

7 § 8391. Notification and provision of treatment resources.

8 (a) Notification to persons present.--The officers serving a
9 preliminary closing order under section 8390(c) (relating to
10 enforcement of preliminary orders) shall provide outreach
11 information and referral materials to all residents present on
12 how to obtain alcohol and other drug treatment.

13 (b) Notification to social services agencies.--The court, no
14 less than ten days prior to the removal of a person under this
15 subchapter, shall cause notice to be provided to the local
16 alcohol and other drug agency, the local child welfare agency
17 and other appropriate social service agencies of the ordered
18 removal of any persons under this subchapter.

19 (c) Posting of notification.--A one-page summary of such
20 information and materials shall be posted next to any
21 preliminary restraining order posted under section 8390(d).

22 (d) Preparation and dissemination of treatment resource
23 information.--The Bureau of Drug and Alcohol Programs in the
24 Department of Health or its designee shall prepare all materials
25 described in subsections (a) and (b) and shall disseminate them
26 to all sheriff departments, local police departments or other
27 appropriate agencies which are empowered to enforce closing
28 orders under this subchapter.

29 § 8392. Premises involving multiple residences or businesses.

30 (a) Limiting order to nuisance portion of premises.--Where

1 the premises constituting the drug nuisance include multiple
2 residences, dwellings or business establishments, a preliminary
3 or permanent closing order issued under any provision of this
4 subchapter shall, so far as is practicable, be limited to that
5 portion of the entire premises necessary to abate the nuisance
6 and prevent the recurrence of drug distribution events.

7 (b) Duty of certain landlords to displaced innocent
8 tenants.--

9 (1) In addition to any other relief expressly authorized
10 under this subchapter, the court may order a defendant who
11 knew or had reason to know of the nuisance to provide
12 relocation assistance to a tenant ordered to vacate premises
13 under this subchapter, provided that the court determines
14 that:

15 (i) The tenant was not involved in a drug
16 distribution event constituting the nuisance.

17 (ii) The tenant did not knowingly aid in the
18 commission of a drug distribution event.

19 (2) Relocation assistance shall be in the amount
20 necessary to cover moving costs, security deposits for
21 utilities and comparable housing, any lost rent and any other
22 reasonable expenses the court may deem fair and reasonable as
23 a result of the court's order to close premises or any
24 portion thereof under this subchapter.

25 § 8393. Vacating or modifying closing order.

26 (a) General rule.--The court upon application of a defendant
27 may, at any time before trial, vacate or modify a closing order,
28 after notice to the person or entity bringing the action under
29 this subchapter, if the defendant clearly and convincingly shows
30 no involvement in the commission of a drug distribution event

1 constituting the nuisance, and:

2 (1) provides a bond or undertaking in an amount equal to
3 the assessed value, for property tax purposes, of the
4 premises or portion thereof subject to the closure order or
5 another amount fixed by the court, and the court determines
6 that the public safety or welfare will be adequately
7 protected; or

8 (2) establishes by clear and convincing evidence that
9 the drug nuisance has been satisfactorily abated and will not
10 recur. In determining whether the drug nuisance has been
11 satisfactorily abated and will not recur, the court shall
12 consider the nature, severity and duration of the drug
13 nuisance and all other relevant factors, including, but not
14 limited to, the following:

15 (i) Whether the defendant through the exercise of
16 reasonable diligence should have known that drug
17 distribution events occurred on the premises and whether
18 the defendant took steps necessary and appropriate in the
19 circumstances to prevent the commission of the events.

20 (ii) Whether the defendant has in good faith
21 initiated eviction or removal actions under the Expedited
22 Eviction of Drug Traffickers Act against tenants or other
23 persons who committed drug distribution events on the
24 premises involved, immediately upon learning of a factual
25 basis for initiating eviction or removal action.

26 (iii) Whether the defendant has developed an
27 abatement plan which has been agreed to by the person or
28 entity bringing the action under this subchapter and
29 approved by the court. The abatement plan may provide for
30 the following:

1 (A) Hiring an onsite manager to prevent the
2 recurrence of drug distribution events.

3 (B) Making capital improvements to the property,
4 such as security gates.

5 (C) Installing improved interior or exterior
6 lighting.

7 (D) Employing security guards.

8 (E) Installing electronic security or visual
9 monitoring systems.

10 (F) Establishing tenant-approved security
11 procedures.

12 (G) Attending property management training
13 programs.

14 (H) Making cosmetic improvements to the
15 property.

16 (I) Providing, at no cost, suitable space and
17 facilities for a local enforcement agency to
18 establish a police substation or ministration on or
19 near the site of the drug nuisance.

20 (J) Establishing any other program or initiative
21 designed to enhance security and prevent the
22 recurrence of drug distribution events on or near the
23 involved premises.

24 (b) Forfeiture of bond.--

25 (1) Where the court accepts a bond or undertaking under
26 subsection (a) and conduct constituting a drug nuisance
27 recurs, the bond or undertaking shall be forfeited unless the
28 court finds extraordinary and compelling reasons why
29 forfeiture would not be in the interest of justice.

30 (2) Moneys forfeited under this section shall be paid

1 into the dedicated fund established in section 8396(d)
2 (relating to penalties).

3 § 8394. Permanent injunction and other relief.

4 (a) General rule.--If the court after trial finds that
5 premises are a drug nuisance, the court shall grant permanent
6 injunctive relief and shall issue orders as are necessary to
7 abate the drug nuisance and prevent, to the extent reasonably
8 possible, recurrence of the drug nuisance.

9 (b) Contents of order.--The court's order may include, but
10 need not be limited to, all of the following:

11 (1) Directing the sheriff or other appropriate agency to
12 seize and remove from the premises all material, equipment
13 and instrumentalities used in the creation and maintenance of
14 the drug nuisance and directing the sheriff to sell the
15 property in the manner provided for the sale of personal
16 property under execution in accordance with the Pennsylvania
17 Rules of Civil Procedure. The net proceeds of any such sale,
18 after the deduction of all lawful expenses involved, shall be
19 paid into the dedicated fund established in section 8396(d)
20 (relating to penalties).

21 (2) Authorizing the plaintiffs to make repairs,
22 renovations and construction and structural alterations or to
23 take other actions necessary to bring the premises into
24 compliance with all applicable housing, building, fire,
25 zoning, health and safety codes, ordinances, rules,
26 regulations or statutes. Expenditures may be filed as a lien
27 against the property.

28 (3) Directing the closing of the premises or appropriate
29 portion thereof to the extent necessary to abate the nuisance
30 and directing the officer or agency enforcing the closure

1 order to post a copy of the judgment and a printed notice of
2 the closing order conforming to the requirements of section
3 8390(d) (relating to enforcement of preliminary orders). The
4 closing directed by the judgment shall be for such period of
5 time as the court may direct but, subject to the provisions
6 of section 8398 (relating to recovery of costs), shall not be
7 for a period of more than one year from the posting of the
8 judgment provided for in this subchapter.

9 (4) Suspending or revoking any business, professional,
10 operational or liquor license.

11 (5) Ordering the suspension of any State, city or local
12 governmental subsidies payable to the owners of the property,
13 such as tenant assistance payments to landlords, until the
14 nuisance is satisfactorily abated.

15 (6) Appointing a temporary receiver to manage or operate
16 the premises for such time as the court deems necessary to
17 abate the nuisance. A receiver appointed under this section
18 shall be paid a reasonable fee by the owner of the property
19 as established by the court and shall have such powers and
20 duties as the court shall direct, including, but not limited
21 to, the following:

22 (i) Collecting, holding and dispersing the proceeds
23 of rents due from all tenants.

24 (ii) Leasing or renting portions of the premises
25 involved.

26 (iii) Making or authorizing other persons to make
27 necessary repairs to maintain the property.

28 (iv) Hiring security or other personnel necessary
29 for the safe and proper operation of the premises.

30 (v) Retaining counsel to prosecute or defend suits

1 arising from the receiver's management of the premises.

2 (vi) Expending funds from the collected rents in
3 furtherance of the foregoing powers.

4 (7) Imposing any or all of the foregoing remedies in
5 combination.

6 (c) Duties of receiver.--A receiver appointed by the court
7 under this section or section 8389(c) (relating to issuance of
8 preliminary orders):

9 (1) Shall upon entering his duties be sworn and shall
10 affirm faithfully and fairly to discharge the trust committed
11 in him.

12 (2) May be required to post a bond or undertaking in an
13 amount to be fixed by the court making the appointment to
14 ensure that the receiver's duties will be faithfully
15 discharged.

16 § 8395. Closure.

17 (a) Presumption of closure.--Where the court after trial
18 determines that premises constitute a drug nuisance, the court
19 shall order the closure of the premises or appropriate portion
20 or portions thereof under section 8394(c) (relating to permanent
21 injunction and other relief), unless the court is convinced that
22 any vacancy resulting from the closure would exacerbate rather
23 than abate the nuisance or would otherwise be extraordinarily
24 harmful to the community or the public interest.

25 (b) Vacation of closure order.--

26 (1) The court at any time after the trial may vacate the
27 provisions of the judgment that direct the closing of some or
28 all of the premises, provided that the defendant establishes
29 by clear and convincing evidence that the drug nuisance has
30 been satisfactorily abated and is not likely to recur.

1 (2) In determining whether the drug nuisance has been
2 satisfactorily abated and is not likely to recur, the court
3 shall consider the nature, severity and duration of the drug
4 nuisance and all other relevant factors, including but not
5 limited to, those factors under section 8393(a) (relating to
6 vacating or modifying closing order).

7 § 8396. Penalties.

8 (a) Civil penalties for culpable defendants.--Where the
9 court after trial finds that premises are a drug nuisance, the
10 court in addition to granting appropriate injunctive relief
11 shall impose a civil penalty against a defendant who knowingly
12 conducted, maintained, aided, abetted or permitted a drug
13 nuisance. The penalty shall be \$25,000 or the market value of
14 the entire premises involved, whichever amount is greater,
15 unless the court finds, based on the evidence, that imposition
16 of such a penalty would constitute a miscarriage of justice
17 under the totality of the circumstances. In such case the court
18 may lower the amount of the penalty to the extent necessary to
19 avoid a miscarriage of justice.

20 (b) Prima facie evidence of defendant's culpability.--For
21 the purpose of imposing a civil penalty under this section, the
22 following shall be prima facie evidence that the defendant
23 knowingly permitted the drug nuisance:

24 (1) the defendant failed to initiate an eviction action
25 under the Expedited Eviction of Drug Traffickers Act against
26 a tenant after being notified by certified or registered mail
27 of the tenant's drug distribution events committed on the
28 leased premises; or

29 (2) a closure order was vacated under section 8395(b)
30 (relating to closure) within two years before the occurrence

1 of the instant drug nuisance.

2 (c) Waiver of penalty upon transfer of title.--The court at
3 any time shall waive, suspend or revoke any unpaid civil penalty
4 imposed under this section if the court is satisfied that:

5 (1) The defendant against whom the penalty has been
6 imposed has not violated any order issued under any provision
7 of this subchapter.

8 (2) The defendant has transferred title to the premises
9 to the plaintiff or another neighborhood or community
10 organization approved by the court, provided that the
11 recipient is a nonprofit incorporated organization or
12 association which is exempt from taxation under the Internal
13 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c))
14 and is authorized by its corporate charter or bylaws to
15 rehabilitate, restore, maintain, manage or operate commercial
16 or residential premises. Unless otherwise agreed to by the
17 recipient organization, the defendant shall personally retain
18 all State and local tax liability, and the obligation shall
19 attach to any other real property in the county owned by the
20 defendant.

21 (d) Collection and disposition of proceeds.--

22 (1) All civil penalties imposed under this section shall
23 be collected in the manner provided by law or by rule of
24 court subject to the following:

25 (i) Ten percent of the penalties shall be retained
26 by the court to offset the costs of collection.

27 (ii) Half of all remaining money collected under
28 this section shall be deposited in a nonlapsing revolving
29 county fund to be known as the nuisance abatement and
30 neighborhood rehabilitation fund. Money in this fund

1 shall be appropriated by the county on an annual basis
2 for the purpose of funding local drug nuisance abatement,
3 drug prevention, education and housing and neighborhood
4 rehabilitation programs.

5 (iii) All of the remaining funds shall be deposited
6 in a nonlapsing revolving fund which is hereby
7 established in the State Treasury and which shall be
8 known as the Treatment for Displaced Residents Fund. This
9 fund shall be administered by the Bureau of Drug and
10 Alcohol Programs in the Department of Health. Its purpose
11 shall be to fund the treatment of displaced residents
12 determined to be addicted under section 26 of the
13 Expedited Eviction of Drug Traffickers Act or for
14 providing treatment for displaced residents under this
15 subchapter. None of these funds shall be used to supplant
16 existing Federal, State, county or municipal resources
17 for the courts, nuisance abatement, drug prevention,
18 education, housing or neighborhood rehabilitation
19 programs or treatment.

20 § 8397. Settlements.

21 (a) Court-approved settlements.--Nothing in this subchapter
22 shall be construed to prevent the parties to the action at any
23 time before or after trial from negotiating and agreeing to a
24 fair settlement of the dispute, subject to approval of the
25 court.

26 (b) Vacation of closure order upon transfer of title.--The
27 court, on application of a plaintiff, may vacate a closing order
28 issued pursuant to this subchapter, where the defendant has
29 transferred title to the premises to the plaintiff or another
30 neighborhood or community organization approved by the court,

1 provided that the transferee is a nonprofit incorporated
2 organization or association which is exempt from taxation under
3 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.
4 § 501(c)) and which is authorized by its corporate charter or
5 bylaws to rehabilitate, restore, maintain, manage or operate
6 commercial or residential premises. In that event, the
7 requirements for prerelease inspection under section 8399.2
8 (relating to release of premises upon inspection or repair)
9 shall not apply.

10 § 8398. Recovery of costs.

11 (a) General rule.--If an action for injunctive relief or
12 penalties brought under this subchapter terminates in a
13 settlement or judgment favorable to the plaintiff, the plaintiff
14 shall be entitled to recover the actual cost of the suit,
15 including, but not limited to, reasonable attorney fees and all
16 expenses and disbursements by the plaintiff and any other
17 governmental entity in investigating, bringing, maintaining and
18 enforcing the action and any court orders.

19 (b) Joint and several liability.--All defendants shall be
20 jointly and severally liable for the payment of taxed costs
21 imposed under this subchapter.

22 § 8399. Liens.

23 (a) General rule.--A judgment awarding a permanent
24 injunction under this subchapter shall be a lien upon the
25 premises declared to be a drug nuisance.

26 (b) Nature of liens.--A judgment against an in personam
27 defendant imposing a civil penalty or bill of taxed costs under
28 this subchapter shall be a lien upon the real estate owned by
29 the defendant at the time of the judgment and upon all real
30 estate the defendant may subsequently acquire for a period of

1 ten years from the date of the judgment.

2 § 8399.1. Contempt.

3 (a) General rule.--A person who knowingly violates an order
4 issued under this subchapter shall be subject to civil contempt
5 as well as punishment for criminal contempt under 18 Pa.C.S. §§
6 4955 (relating to violation of orders) and 5101 (relating to
7 obstructing administration of law or other governmental
8 function).

9 (b) Construction.--Nothing in this subchapter shall be
10 construed to preclude or preempt criminal prosecution for
11 violation of a controlled substance offense or any other
12 criminal offense.

13 § 8399.2. Release of premises upon inspection or repair.

14 (a) Compliance with codes as prerequisite to opening.--

15 (1) Subject to the provisions of section 8397(b)
16 (relating to settlements), and unless the court expressly
17 orders otherwise, no premises or portion thereof ordered to
18 be closed under any other provision of this subchapter shall
19 be released or opened unless it has been inspected by the
20 appropriate county agency and found to be in compliance with
21 applicable State and local housing, building, fire, zoning,
22 health and safety codes, ordinances, rules, regulations or
23 statutes.

24 (2) Where the inspection reveals violations of any such
25 code, ordinance, rule, regulation or statute, the court shall
26 issue such orders or grant such relief as may be necessary to
27 bring the premises or portion thereof into compliance. The
28 court may order the premises or portion thereof to remain
29 closed pending necessary repairs or modification,
30 notwithstanding that the order or closure may exceed the one-

1 year time limit prescribed under section 8394(c) (relating to
2 permanent injunction and other relief).

3 (b) Authorization to inspect or repair.--The court may
4 authorize any person or government official to enter premises or
5 a portion thereof closed under this subchapter for the purpose
6 of conducting an inspection or making repairs or modifications
7 necessary to abate the nuisance or to bring the premises or
8 portion thereof into compliance with all applicable housing,
9 building, fire, zoning, health or safety code, ordinance, rule,
10 regulation or statute.

11 § 8399.3. Cumulative remedies.

12 The causes of action and remedies authorized under this
13 subchapter shall be cumulative with each other and shall be in
14 addition to, not in lieu of, any other causes of action or
15 remedies which may be available at law or equity.

16 § 8399.4. Admissibility of evidence.

17 (a) General rule.--In any action brought under this
18 subchapter, all relevant evidence, including evidence of the use
19 or threat of violence, evidence of reputation in a community and
20 any prior efforts or lack of efforts by the defendant to abate
21 the drug nuisance shall be admissible to prove the existence of
22 a drug nuisance.

23 (b) Effect of criminal conviction or adjudication of
24 delinquency.--

25 (1) Where a criminal prosecution or adjudication
26 proceeding involving the drug distribution event constituting
27 the drug nuisance results in a criminal conviction or
28 adjudication of delinquency, the conviction or adjudication
29 creates a rebuttable presumption that the drug distribution
30 event occurred.

1 (2) Any evidence or testimony admitted in the criminal
2 or juvenile proceedings, including transcripts or court
3 reporters' notes of the transcripts of the adult or juvenile
4 criminal proceedings, whether or not they have been
5 transcribed, may be admitted in the civil action brought
6 under this subchapter.

7 (c) Use of sealed criminal proceeding records.--In the event
8 that the evidence or records of a criminal proceeding which did
9 not result in a conviction or adjudication of delinquency have
10 been sealed under applicable law, the court in a civil action
11 brought under this subchapter may, notwithstanding any other
12 provision of this subchapter, order such evidence or records to
13 be unsealed if the court finds that the evidence or records
14 would be relevant to the fair disposition of the civil action.

15 (d) Protection of threatened witnesses or affiants.--If
16 proof of the existence of the drug nuisance depends, in whole or
17 in part, upon the affidavits or testimony of witnesses who are
18 not peace officers, the court may, upon a showing of prior
19 threats of violence or acts of violence by a defendant or
20 another person, issue orders to protect those witnesses,
21 including, but not limited to, the nondisclosure of the name,
22 address or any other information which may identify the
23 witnesses.

24 (e) Availability of law enforcement resources to plaintiffs
25 or potential plaintiffs.--

26 (1) A law enforcement agency may make available to a
27 person or entity seeking to secure compliance with this
28 subchapter any police report or forensic laboratory report,
29 or edited portions thereof, concerning drug distribution
30 events committed on or within the involved premises.

1 (2) A law enforcement agency may make any officer or
2 officers available to testify as a fact or expert witness in
3 a civil action brought under this subchapter.

4 (3) The agency may not disclose such information if, in
5 the agency's opinion, disclosure would jeopardize an
6 investigation, prosecution or other proceeding or violate
7 Federal or State law.

8 § 8399.5. Relationship to criminal proceedings.

9 A civil action may be brought and maintained under this
10 subchapter, and the court may find the existence of a drug
11 nuisance, notwithstanding that a drug distribution event or
12 events used to establish the existence of a drug nuisance have
13 not resulted in an arrest, prosecution, conviction or
14 adjudication of delinquency.

15 § 8399.6. Liability for damage to closed properties.

16 (a) Effect of court-ordered closing.--Court-ordered closing
17 of premises or a portion thereof under this subchapter shall not
18 constitute an act of possession, ownership or control by the
19 court, the plaintiff or a government official or entity
20 responsible for enforcing the court order.

21 (b) Immunity of plaintiffs and enforcing agencies.--A person
22 or entity bringing, maintaining or enforcing a civil action or
23 order issued in accordance with the provisions of this
24 subchapter shall have immunity from civil liability that might
25 otherwise be incurred for any theft of or loss, damage or injury
26 to premises constituting the drug nuisance, or to any fixture,
27 furniture or personal or movable property located in or on such
28 premises.

29 § 8399.7. Civil immunity.

30 Any person or entity who in good faith institutes,

1 participates or testifies in or encourages any person or entity
2 to institute, participate or testify in a civil action brought
3 under this subchapter or who in good faith provides information
4 relied upon by a person or entity in instituting or
5 participating in a civil action under this subchapter shall be
6 immune from any civil liability that might otherwise be incurred
7 or imposed for such actions or conduct.

8 § 8399.8. Civil action.

9 (a) Right of action or damages.--Notwithstanding the
10 provisions of section 8385 (relating to parties), a person
11 damaged in the person's business or property by reason of a drug
12 nuisance may bring a separate civil action for actual damages in
13 the court of common pleas against persons who knowingly
14 conducted, maintained, aided, abetted or permitted a drug
15 distribution event constituting the drug nuisance.

16 (b) Effect of prior notification of owner concerning
17 nuisance.--In a civil action for damages under this section,
18 failure of an owner or landlord to initiate an eviction action
19 against a tenant under the Expedited Eviction of Drug
20 Traffickers Act, if the owner or landlord has been notified by
21 certified or registered mail of the tenant's drug distribution
22 events committed on the leased premises, shall be prima facie
23 evidence that the owner knowingly gave permission to engage in
24 conduct constituting the drug nuisance.

25 (c) Admission of expert testimony.--In a civil action for
26 damages under this section, expert testimony may be used to
27 determine the amount of any actual damage or loss incurred by
28 reason of the drug nuisance.

29 (d) Attorney fees and other costs to prevailing plaintiff.--

30 (1) Whenever an action for damages brought under this

1 section terminates in a settlement or judgment favorable to
2 the plaintiff, the plaintiff shall be entitled to recover the
3 actual cost of the suit, including, but not limited to,
4 reasonable attorney fees and all expenses and disbursements
5 by the plaintiff in investigating, bringing and maintaining
6 the action.

7 (2) All defendants shall be jointly and severally liable
8 for the payments of taxed costs imposed under this section.

9 (e) General admissibility of evidence.--In any civil action
10 for damages brought under this section, any evidence admitted or
11 admissible in a civil action for injunctive relief or penalty
12 under this subchapter shall be admissible.

13 § 8399.9. Use of property for treatment and other purposes.

14 Where title to property has been transferred to a
15 neighborhood or community organization under section 8396(c)
16 (relating to penalties) or a negotiated settlement of any action
17 brought under this subchapter, the property may, subject to
18 approval of the court in which the civil action was initiated,
19 be used to house an alcohol and other drug prevention,
20 education, intervention or licensed alcohol and other drug
21 counseling or treatment program. This section shall not be
22 construed to exempt the property from the requirements of
23 applicable zoning, fire, safety, health code, ordinance, rule,
24 regulation or statute.

25 Section 3. This act shall take effect in 180 days.