

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 125 Session of 2009

INTRODUCED BY GORDNER, ORIE, RAFFERTY, COSTA, BOSCOLA, ALLOWAY, BAKER, EICHELBERGER, ERICKSON, FONTANA, KASUNIC, KITCHEN, LOGAN, ROBBINS, TARTAGLIONE, TOMLINSON, D. WHITE, WOZNIAK, YAW AND O'PAKE, JANUARY 30, 2009

REFERRED TO JUDICIARY, JANUARY 30, 2009

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; and providing for
 12 methamphetamine production.

13 The General Assembly of the Commonwealth of Pennsylvania
 14 hereby enacts as follows:

15 Section 1. Section 13(c) of the act of April 14, 1972 (P.L.
 16 233, No.64), known as The Controlled Substance, Drug, Device and
 17 Cosmetic Act, amended December 14, 1984 (P.L.988, No.200), is
 18 amended and subsection (a) is amended by adding a clause to
 19 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 (39) The knowing possession of ephedrine, pseudoephedrine,
3 phenylpropanolamine or a product containing ephedrine,
4 pseudoephedrine, phenylpropanolamine, or any of their salts,
5 optical isomers or salts of optical isomers with the intent to
6 manufacture methamphetamine.

7 * * *

8 (c) Any person who violates the provisions of clauses (21),
9 (22) [and (24)], (24) and (39) of subsection (a) shall be guilty
10 of a misdemeanor, and shall, on conviction thereof, be punished
11 only as follows:

12 (1) Upon conviction of the first such offense, he shall be
13 sentenced to imprisonment not exceeding six months, or to pay a
14 fine not exceeding ten thousand dollars (\$10,000), or both.

15 (2) Upon conviction of the second and subsequent offense, he
16 shall be sentenced to imprisonment not exceeding two years, or
17 to pay a fine not exceeding twenty-five thousand dollars
18 (\$25,000), or both.

19 * * *

20 Section 2. The act is amended by adding a section to read:

21 Section 13.3. Methamphetamine Production.--(a) Proof that a
22 person had in his possession more than 40 grams or 15 packages
23 of any drug containing ephedrine, pseudoephedrine,
24 phenylpropanolamine, or any of their salts, optical isomers or
25 salts of optical isomers as an active ingredient shall give rise
26 to a rebuttable presumption that the person acted with intent to
27 manufacture methamphetamine.

28 (b) Proof that a person had in his possession any amount of
29 ephedrine, pseudoephedrine, phenylpropanolamine, or any of their
30 salts, optical isomers or salts of optical isomers as an active

1 ingredient and at the same time possessed any amount of any
2 precursor substance under section 13.1 shall give rise to a
3 rebuttable presumption that the person acted with intent to
4 manufacture methamphetamine.

5 (c) The provisions of this section shall not apply to a
6 licensed pharmaceutical manufacturer, wholesaler, or the sales
7 representative of a licensed manufacturer or wholesaler, or to a
8 licensed pharmacist or licensed health care professional, or to
9 any other person engaged by a licensed manufacturer, wholesaler,
10 pharmacist or health care provider, who lawfully markets,
11 transports, delivers or dispenses a product containing
12 ephedrine, pseudoephedrine, phenylpropanolamine, or any of their
13 salts, optical isomers or salts of optical isomers.

14 Section 3. This act shall take effect in 60 days.