

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 253 Session of 2017

INTRODUCED BY BOSCOLA, BROWNE, FONTANA, FARNESE, TARTAGLIONE,
RAFFERTY AND VULAKOVICH, JANUARY 27, 2017

REFERRED TO JUDICIARY, JANUARY 27, 2017

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in minors, further providing for drug-
3 free school zones.

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

6 Section 1. Section 6317(b) and (d) of Title 18 of the
7 Pennsylvania Consolidated Statutes are amended and the section
8 is amended by adding a subsection to read:

9 § 6317. Drug-free school zones.

10 * * *

11 (a.1) Aggravating circumstances.--If an administrator, a
12 teacher or an employee of a public, private or parochial school
13 or college or university is sentenced under subsection (a), the
14 sentence shall be increased by an additional two years in
15 addition to any other sentence imposed under subsection (a) or
16 any other statute.

17 (b) [Proof at sentencing.--The provisions of this section
18 shall not be an element of the crime. Notice of the

1 applicability of this section to the defendant shall not be
2 required prior to conviction, but reasonable notice of the
3 Commonwealth's intention to proceed under this section shall be
4 provided after conviction and before sentencing. The
5 applicability of this section shall be determined at sentencing.
6 The court shall consider evidence presented at trial, shall
7 afford the Commonwealth and the defendant an opportunity to
8 present necessary additional evidence and shall determine by a
9 preponderance of the evidence if this section is applicable.]

10 Application of mandatory minimum penalty.--Any provision of this
11 section that requires imposition of a mandatory minimum sentence
12 shall constitute an element enhancing the underlying offense.
13 Any enhancing element must be proven beyond a reasonable doubt
14 at trial on the underlying offense and must be submitted to the
15 fact-finder for deliberation together with the underlying
16 offense. If the fact-finder finds the defendant guilty of the
17 underlying offense, the fact-finder shall then also decide
18 whether any enhancing element has been proven.

19 * * *

20 (d) Appeal by Commonwealth.--[If a sentencing court refuses
21 to apply this section where applicable, the Commonwealth shall
22 have the right to appellate review of the action of the
23 sentencing court. The appellate court shall vacate the sentence
24 and remand the case to the sentencing court for imposition of a
25 sentence in accordance with this section if it finds that the
26 sentence was imposed in violation of this section.] If the fact-
27 finder has found any enhancing element and a sentencing court
28 imposes a sentence below the mandatory minimum sentence, the
29 Commonwealth shall have the right to appellate review of the
30 sentence. If the appellate court finds that the mandatory

1 sentencing provision was applicable, the court shall vacate the
2 sentence and remand for resentencing in accordance with that
3 provision.

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