

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2566 Session of 2020

INTRODUCED BY WHITE, ROTHMAN, MURT, BARRAR, PICKETT, MILLARD,
NELSON, THOMAS, KEEFER, BERNSTINE AND SCHMITT, JUNE 8, 2020

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 8, 2020

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in sentencing, providing
3 for sentences for offenses committed with illegal firearms.

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

6 Section 1. Title 42 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 9712.2. Sentences for offenses committed with illegal
9 firearms.

10 (a) Mandatory sentence.--Except as provided under section
11 9716 (relating to two or more mandatory minimum sentences
12 applicable), a person who is convicted in a court of this
13 Commonwealth of an offense shall, if the person possessed an
14 illegal firearm during the commission of the offense, whether or
15 not the illegal firearm was loaded or functional, be sentenced
16 to a minimum sentence of at least 10 years of total confinement
17 notwithstanding any other provision of this title or other
18 statute to the contrary. The person shall not be eligible for

1 parole, probation, work release or furlough.

2 (b) Application of mandatory minimum penalty.--Any provision
3 of this section that requires imposition of a mandatory minimum
4 sentence shall constitute an element enhancing the underlying
5 offense. An enhancing element must be proven beyond a reasonable
6 doubt at trial on the underlying offense and must be submitted
7 to the fact-finder for deliberation together with the underlying
8 offense. If the fact-finder finds the defendant guilty of the
9 underlying offense, the fact-finder shall then also decide
10 whether an enhancing element has been proven.

11 (c) Authority of court in sentencing.--There shall be no
12 authority in a court to impose on an offender to which this
13 section is applicable a lesser sentence than provided for in
14 subsection (a) or to place the offender on probation or to
15 suspend sentence. Nothing in this section shall prevent the
16 sentencing court from imposing a sentence greater than that
17 provided in this section. Sentencing guidelines promulgated by
18 the Pennsylvania Commission on Sentencing shall not supersede
19 the mandatory sentences provided in this section.

20 (d) Appeal by Commonwealth.--If the fact-finder has found an
21 enhancing element and a sentencing court imposes a sentence
22 below the mandatory minimum sentence, the Commonwealth shall
23 have the right to appellate review of the sentence. If the
24 appellate court finds that the mandatory sentencing provision
25 was applicable, the court shall vacate the sentence and remand
26 the case for resentencing in accordance with that provision.

27 (e) Definitions.--As used in this section, the following
28 words and phrases shall have the meanings given to them in this
29 subsection unless the context clearly indicates otherwise:

30 "Illegal firearm." A firearm, as that term is defined in

1 section 9712 (relating to sentences for offenses committed with
2 firearms), the ownership or possession of which is prohibited
3 under Federal or State law.

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