
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 8

Session of
2019

INTRODUCED BY REGAN, LANGERHOLC, BREWSTER, TARTAGLIONE,
PHILLIPS-HILL, SABATINA, BROOKS, FOLMER, MARTIN, ARGALL,
STEFANO, MENSCH, DISANTO, COSTA, KILLION, J. WARD, BROWNE,
HUTCHINSON AND WHITE, FEBRUARY 5, 2019

REFERRED TO JUDICIARY, FEBRUARY 5, 2019

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in other offenses, further providing
3 for drug trafficking sentencing and penalties.

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

6 Section 1. Section 7508(b) and (d) of Title 18 of the
7 Pennsylvania Consolidated Statutes are amended and subsection

8 (a) is amended by adding a paragraph to read:

9 § 7508. Drug trafficking sentencing and penalties.

10 (a) General rule.--Notwithstanding any other provisions of
11 this or any other act to the contrary, the following provisions
12 shall apply:

13 * * *

14 (9) A person who is convicted of violating section 13(a)
15 (14), (30) or (37) of The Controlled Substance, Drug, Device
16 and Cosmetic Act where the controlled substance or a mixture
17 containing it is fentanyl or a fentanyl derivative, compound

1 or analogue as set forth in section 4(1)(ii)(23) or (2)(ii)
2 (6) of The Controlled Substance, Drug, Device and Cosmetic
3 Act shall, upon conviction, be sentenced to a mandatory
4 minimum term of imprisonment and a fine as set forth in this
5 paragraph:

6 (i) when the aggregate weight of the compound or
7 mixture containing the fentanyl or fentanyl derivative,
8 compound or analogue involved is less than 1.0 gram; two
9 years in prison and a fine of \$5,000 or such larger
10 amount as is sufficient to exhaust the assets utilized in
11 and the proceeds from the illegal activity; however, if
12 at the time of sentencing the defendant has been
13 convicted of another drug trafficking offense: 36 months
14 in prison and a fine of \$10,000 or such larger amount as
15 is sufficient to exhaust the assets utilized in and the
16 proceeds from the illegal activity;

17 (ii) when the aggregate weight of the compound or
18 mixture containing the fentanyl or fentanyl derivative,
19 compound or analogue involved is at least 1.0 gram but
20 less than ten grams; three years in prison and a fine of
21 \$15,000 or such larger amount as is sufficient to exhaust
22 the assets utilized in and the proceeds from the illegal
23 activity; however, if at the time of sentencing the
24 defendant has been convicted of another drug trafficking
25 offense: 48 months in prison and a fine of \$30,000 or
26 such larger amount as is sufficient to exhaust the assets
27 utilized in and the proceeds from the illegal activity;

28 (iii) when the aggregate weight of the compound or
29 mixture containing the fentanyl or fentanyl derivative,
30 compound or analogue involved is at least ten grams but

1 less than 50 grams; 54 months in prison and a fine of
2 \$25,000 or such larger amount as is sufficient to exhaust
3 the assets utilized in and the proceeds from the illegal
4 activity; however, if at the time of sentencing the
5 defendant has been convicted of another drug trafficking
6 offense: 66 months in prison and a fine of \$50,000 or
7 such larger amount as is sufficient to exhaust the assets
8 utilized in and the proceeds from the illegal activity;

9 (iv) when the aggregate weight of the compound or
10 mixture containing the fentanyl or fentanyl derivative,
11 compound or analogue involved is at least 50 grams but
12 less than 100 grams; 78 months in prison and a fine of
13 \$25,000 or such larger amount as is sufficient to exhaust
14 the assets utilized in and the proceeds from the illegal
15 activity; however, if at the time of sentencing the
16 defendant has been convicted of another drug trafficking
17 offense: 90 months in prison and a fine of \$50,000 or
18 such larger amount as is sufficient to exhaust the assets
19 utilized in and the proceeds from the illegal activity;
20 or

21 (v) when the aggregate weight of the compound or
22 mixture containing the fentanyl or fentanyl derivative,
23 compound or analogue involved is at least 100 grams; 96
24 months in prison and a fine of \$25,000 or such larger
25 amount as is sufficient to exhaust the assets utilized in
26 and the proceeds from the illegal activity; however, if
27 at the time of sentencing the defendant has been
28 convicted of another drug trafficking offense: 108 months
29 in prison and a fine of \$50,000 or such larger amount as
30 is sufficient to exhaust the assets utilized in and the

1 proceeds from the illegal activity.

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

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

23 * * *

24 (d) [Appellate review.--If a sentencing court refuses to
25 apply this section where applicable, the Commonwealth shall have
26 the right to appellate review of the action of the sentencing
27 court. The appellate court shall vacate the sentence and remand
28 the case to the sentencing court for imposition of a sentence in
29 accordance with this section if it finds that the sentence was
30 imposed in violation of this section.] Appeal by Commonwealth.--

1 If the finder of fact has found any enhancing element and a
2 sentencing court imposes a sentence below the mandatory minimum
3 sentence, the Commonwealth shall have the right to appellate
4 review of the sentence. If the appellate court finds that the
5 mandatory sentencing provision was applicable, the court shall
6 vacate the sentence and remand the case for resentencing in
7 accordance with that provision.

8 * * *

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