

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 165 Session of 2023

INTRODUCED BY TARTAGLIONE, FONTANA, BREWSTER, PENNYCUICK, LAUGHLIN AND STEFANO, JANUARY 30, 2023

SENATOR BAKER, JUDICIARY, AS AMENDED, APRIL 25, 2023

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.

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

14 Section 1. Section 13(a) of the act of April 14, 1972
15 (P.L.233, No.64), known as The Controlled Substance, Drug,
16 Device and Cosmetic Act, is amended by adding a clause and the
17 section is amended by adding a subsection to read:

18 Section 13. Prohibited Acts; Penalties.--(a) The following
19 acts and the causing thereof within the Commonwealth are hereby
20 prohibited:

21 * * *

22 (41) The operation of a clinic or establishment that

1 ~~provides drug paraphernalia and~~ KNOWINGLY PROVIDES space for any <--
2 ~~person to inject, ingest, inhale or otherwise introduce into the~~
3 ~~person's body a controlled substance in violation of this act.~~

4 THE FOLLOWING SHALL APPLY: <--

5 (I) THE DISTRICT ATTORNEYS OF THE SEVERAL COUNTIES SHALL
6 HAVE AUTHORITY TO INVESTIGATE AND TO INSTITUTE CRIMINAL
7 PROCEEDINGS FOR ANY VIOLATION OF THIS CLAUSE.

8 (II) IN ADDITION TO THE AUTHORITY CONFERRED UPON THE
9 ATTORNEY GENERAL BY THE ACT OF OCTOBER 15, 1980 (P.L.950,
10 NO.164), KNOWN AS THE "COMMONWEALTH ATTORNEYS ACT," THE ATTORNEY
11 GENERAL SHALL HAVE THE AUTHORITY TO INVESTIGATE AND TO INSTITUTE
12 CRIMINAL PROCEEDINGS FOR ANY VIOLATION OF THIS CLAUSE.

13 (III) NO PERSON CHARGED WITH A VIOLATION OF THIS CLAUSE BY
14 THE ATTORNEY GENERAL SHALL HAVE STANDING TO CHALLENGE THE
15 AUTHORITY OF THE ATTORNEY GENERAL TO INVESTIGATE OR PROSECUTE
16 THE CASE AND, IF ANY CHALLENGE IS MADE, THE CHALLENGE SHALL BE
17 DISMISSED AND NO RELIEF SHALL BE AVAILABLE IN THE COURTS OF THIS
18 COMMONWEALTH TO THE PERSON MAKING THE CHALLENGE.

19 (IV) NOTHING CONTAINED IN SUBCLAUSE (I), (II) OR (III) SHALL
20 BE CONSTRUED TO LIMIT THE REGULATORY OR INVESTIGATIVE AUTHORITY
21 OF ANY DEPARTMENT OR AGENCY OF THE COMMONWEALTH WHOSE FUNCTIONS
22 MIGHT RELATE TO PERSONS, ENTERPRISES OR MATTERS FALLING WITHIN
23 THE SCOPE OF THIS SECTION.

24 (V) NOTHING IN THIS CLAUSE SHALL BE CONSTRUED TO:

25 (A) PROHIBIT THE PROVISION OF SPACE FOR THE USE OF A MEDICAL
26 MARIJUANA PRODUCT AS LONG AS THAT USE IS IN CONFORMANCE WITH THE
27 ACT OF APRIL 17, 2016 (P.L.84, NO.16), KNOWN AS THE "MEDICAL
28 MARIJUANA ACT."

29 (B) Prohibit a practitioner from prescribing, administering
30 or dispensing a controlled substance in a manner that is

1 otherwise permitted under this act.

2 * * *

3 (g) Any person who violates ~~subsection (a)(41)~~ CLAUSE (41) <--

4 OF SUBSECTION (A):

5 (1) Is guilty of a felony and upon conviction thereof shall
6 be sentenced to a term of imprisonment of not more than twenty
7 years or a fine of not more than five hundred thousand dollars
8 (\$500,000), or both, or a fine of two million dollars
9 (\$2,000,000) for a person other than an individual.

10 (2) Shall be subject to a civil penalty of not more than two
11 hundred fifty thousand dollars (\$250,000). THE ATTORNEY GENERAL <--
12 SHALL HAVE THE POWER AND DUTY TO INSTITUTE PROCEEDINGS TO
13 RECOVER THE CIVIL PENALTY PROVIDED UNDER THIS CLAUSE AGAINST ANY
14 PERSON LIABLE TO THE COMMONWEALTH FOR A PENALTY.

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