
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1343 Session of
2019

INTRODUCED BY MOUL, SCHMITT, ZIMMERMAN, MILLARD, BERNSTINE AND
KEEFER, APRIL 29, 2019

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 29, 2019

AN ACT

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

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

6 Section 1. Section 7508(a)(2), (3), (4), (7) and (8), (b)
7 and (d) of Title 18 of the Pennsylvania Consolidated Statutes,
8 declared unconstitutional, 177 A.3d 182 (Pa. 2018), are amended
9 to read:

10 § 7508. Drug trafficking sentencing and penalties.

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

14 * * *

15 (2) A person who is convicted of violating section 13(a)
16 (14), (30) or (37) of The Controlled Substance, Drug, Device
17 and Cosmetic Act where the controlled substance or a mixture
18 containing it is classified in Schedule I or Schedule II

1 under section 4 of that act and is a narcotic drug shall,
2 upon conviction, be sentenced to a mandatory minimum term of
3 imprisonment and a fine as set forth in this subsection:

4 [(i) when the aggregate weight of the compound or
5 mixture containing the substance involved is at least 2.0
6 grams and less than ten grams; two years in prison and a
7 fine of \$5,000 or such larger amount as is sufficient to
8 exhaust the assets utilized in and the proceeds from the
9 illegal activity; however, if at the time of sentencing
10 the defendant has been convicted of another drug
11 trafficking offense: three years in prison and \$10,000 or
12 such larger amount as is sufficient to exhaust the assets
13 utilized in and the proceeds from the illegal activity;

14 (ii) when the aggregate weight of the compound or
15 mixture containing the substance involved is at least ten
16 grams and less than 100 grams; three years in prison and
17 a fine of \$15,000 or such larger amount as is sufficient
18 to exhaust the assets utilized in and the proceeds from
19 the illegal activity; however, if at the time of
20 sentencing the defendant has been convicted of another
21 drug trafficking offense: five years in prison and
22 \$30,000 or such larger amount as is sufficient to exhaust
23 the assets utilized in and the proceeds from the illegal
24 activity; and]

25 (iii) when the aggregate weight of the compound or
26 mixture containing the substance involved is at least 100
27 grams; [five] 25 years in prison and a fine of \$25,000 or
28 such larger amount as is sufficient to exhaust the assets
29 utilized in and the proceeds from the illegal activity;
30 however, if at the time of sentencing the defendant has

1 been convicted of another drug trafficking offense:
2 [seven years in prison] life in prison without the
3 possibility of parole and \$50,000 or such larger amount
4 as is sufficient to exhaust the assets utilized in and
5 the proceeds from the illegal activity.

6 (3) A person who is convicted of violating section 13(a)
7 (14), (30) or (37) of The Controlled Substance, Drug, Device
8 and Cosmetic Act where the controlled substance is coca
9 leaves or is any salt, compound, derivative or preparation of
10 coca leaves or is any salt, compound, derivative or
11 preparation which is chemically equivalent or identical with
12 any of these substances or is any mixture containing any of
13 these substances except decocainized coca leaves or extracts
14 of coca leaves which (extracts) do not contain cocaine or
15 ecgonine shall, upon conviction, be sentenced to a mandatory
16 minimum term of imprisonment and a fine as set forth in this
17 subsection:

18 [(i) when the aggregate weight of the compound or
19 mixture containing the substance involved is at least 2.0
20 grams and less than ten grams; one year in prison and a
21 fine of \$5,000 or such larger amount as is sufficient to
22 exhaust the assets utilized in and the proceeds from the
23 illegal activity; however, if at the time of sentencing
24 the defendant has been convicted of another drug
25 trafficking offense: three years in prison and \$10,000 or
26 such larger amount as is sufficient to exhaust the assets
27 utilized in and the proceeds from the illegal activity;

28 (ii) when the aggregate weight of the compound or
29 mixture containing the substance involved is at least ten
30 grams and less than 100 grams; three years in prison and

1 a fine of \$15,000 or such larger amount as is sufficient
2 to exhaust the assets utilized in and the proceeds from
3 the illegal activity; however, if at the time of
4 sentencing the defendant has been convicted of another
5 drug trafficking offense: five years in prison and
6 \$30,000 or such larger amount as is sufficient to exhaust
7 the assets utilized in and the proceeds from the illegal
8 activity; and]

9 (iii) when the aggregate weight of the compound or
10 mixture of the substance involved is at least 100 grams;
11 four years in prison and a fine of \$25,000 or such larger
12 amount as is sufficient to exhaust the assets utilized in
13 and the proceeds from the illegal activity; however, if
14 at the time of sentencing the defendant has been
15 convicted of another drug trafficking offense: [seven] 25
16 years in prison and \$50,000 or such larger amount as is
17 sufficient to exhaust the assets utilized in and the
18 proceeds from the illegal activity[.]; however, if at the
19 time of sentencing the defendant has been convicted of
20 another drug trafficking offense: life in prison without
21 the possibility of parole and a fine of \$50,000 or such
22 larger amount as is sufficient to exhaust the assets
23 utilized in and the proceeds from the illegal activity.

24 (4) A person who is convicted of violating section 13(a)
25 (14), (30) or (37) of The Controlled Substance, Drug, Device
26 and Cosmetic Act where the controlled substance is
27 methamphetamine or phencyclidine or is a salt, isomer or salt
28 of an isomer of methamphetamine or phencyclidine or is a
29 mixture containing methamphetamine or phencyclidine,
30 containing a salt of methamphetamine or phencyclidine,

1 containing an isomer of methamphetamine or phencyclidine,
2 containing a salt of an isomer of methamphetamine or
3 phencyclidine shall, upon conviction, be sentenced to a
4 mandatory minimum term of imprisonment and a fine as set
5 forth in this subsection:

6 [(i) when the aggregate weight of the compound or
7 mixture containing the substance involved is at least
8 five grams and less than ten grams; three years in prison
9 and a fine of \$15,000 or such larger amount as is
10 sufficient to exhaust the assets utilized in and the
11 proceeds from the illegal activity; however, if at the
12 time of sentencing the defendant has been convicted of
13 another drug trafficking offense: five years in prison
14 and \$30,000 or such larger amount as is sufficient to
15 exhaust the assets utilized in and the proceeds from the
16 illegal activity;

17 (ii) when the aggregate weight of the compound or
18 mixture containing the substance involved is at least ten
19 grams and less than 100 grams; four years in prison and a
20 fine of \$25,000 or such larger amount as is sufficient to
21 exhaust the assets utilized in and the proceeds from the
22 illegal activity; however, if at the time of sentencing
23 the defendant has been convicted of another drug
24 trafficking offense: seven years in prison and \$50,000 or
25 such larger amount as is sufficient to exhaust the assets
26 utilized in and the proceeds from the illegal activity;
27 and]

28 (iii) when the aggregate weight of the compound or
29 mixture containing the substance involved is at least 100
30 grams; [five] 25 years in prison and a fine of \$50,000 or

1 such larger amount as is sufficient to exhaust the assets
2 utilized in and the proceeds from the illegal activity;
3 however, if at the time of sentencing the defendant has
4 been convicted of another drug trafficking offense:
5 [eight years in prison] life in prison without the
6 possibility of parole and \$50,000 or such larger amount
7 as is sufficient to exhaust the assets utilized in and
8 the proceeds from the illegal activity.

9 * * *

10 (7) A person who is convicted of violating section 13(a)
11 (14), (30) or (37) of The Controlled Substance, Drug, Device
12 and Cosmetic Act where the controlled substance or a mixture
13 containing it is heroin shall, upon conviction, be sentenced
14 as set forth in this paragraph:

15 [(i) when the aggregate weight of the compound or
16 mixture containing the heroin involved is at least 1.0
17 gram but less than 5.0 grams the sentence shall be a
18 mandatory minimum term of two years in prison and a fine
19 of \$5,000 or such larger amount as is sufficient to
20 exhaust the assets utilized in and the proceeds from the
21 illegal activity; however, if at the time of sentencing
22 the defendant has been convicted of another drug
23 trafficking offense: a mandatory minimum term of three
24 years in prison and \$10,000 or such larger amount as is
25 sufficient to exhaust the assets utilized in and the
26 proceeds from the illegal activity;

27 (ii) when the aggregate weight of the compound or
28 mixture containing the heroin involved is at least 5.0
29 grams but less than 50 grams: a mandatory minimum term of
30 three years in prison and a fine of \$15,000 or such

1 larger amount as is sufficient to exhaust the assets
2 utilized in and the proceeds from the illegal activity;
3 however, if at the time of sentencing the defendant has
4 been convicted of another drug trafficking offense: a
5 mandatory minimum term of five years in prison and
6 \$30,000 or such larger amount as is sufficient to exhaust
7 the assets utilized in and the proceeds from the illegal
8 activity; and]

9 (iii) when the aggregate weight of the compound or
10 mixture containing the heroin involved is 50 grams or
11 greater: a mandatory minimum term of [~~five~~] 25 years in
12 prison and a fine of \$25,000 or such larger amount as is
13 sufficient to exhaust the assets utilized in and the
14 proceeds from the illegal activity; however, if at the
15 time of sentencing the defendant has been convicted of
16 another drug trafficking offense: a mandatory minimum
17 term of [~~seven years in prison~~] life in prison without
18 the possibility of parole and \$50,000 or such larger
19 amount as is sufficient to exhaust the assets utilized in
20 and the proceeds from the illegal activity.

21 (8) A person who is convicted of violating section 13(a)
22 (12), (14) or (30) of The Controlled Substance, Drug, Device
23 and Cosmetic Act where the controlled substance or a mixture
24 containing it is 3,4-methylenedioxyamphetamine (MDA); 3,4-
25 methylenedioxymethamphetamine (MDMA); 5-methoxy-3,4-
26 methylenedioxyamphetamine (MMDA); 3,4-methylenedioxy-N-
27 ethylamphetamine; N-hydroxy-3,4-methylenedioxyamphetamine; or
28 their salts, isomers and salts of isomers, whenever the
29 existence of such salts, isomers and salts of isomers is
30 possible within the specific chemical designation, shall,

1 upon conviction, be sentenced as set forth in this paragraph:

2 [(i) When the aggregate weight of the compound or
3 mixture containing the substance involved is at least 50
4 tablets, capsules, caplets or other dosage units, or 15
5 grams and less than 100 tablets, capsules, caplets or
6 other dosage units, or less than 30 grams, the person is
7 guilty of a felony and, upon conviction thereof, shall be
8 sentenced to imprisonment not exceeding five years or to
9 pay a fine not exceeding \$15,000, or both.]

10 (ii) When the aggregate weight of the compound or
11 mixture containing the substance involved is at least 100
12 tablets, capsules, caplets or other dosage units, or 30
13 grams and less than 1,000 tablets, capsules, caplets or
14 other dosage units, or less than 300 grams, the person is
15 guilty of a felony and, upon conviction thereof, shall be
16 sentenced to imprisonment not exceeding ten years or to
17 pay a fine not exceeding \$100,000, or both.]

18 (iii) When the aggregate weight of the compound or
19 mixture containing the substance involved is at least
20 1,000 tablets, capsules, caplets or other dosage units,
21 or 300 grams, the person is guilty of a felony and, upon
22 conviction thereof, shall be sentenced to imprisonment
23 not exceeding [15] 25 years or to pay a fine not
24 exceeding \$250,000, or both[.]; however, if at the time
25 of sentencing the defendant has been convicted of another
26 drug trafficking offense: life in prison without the
27 possibility of parole and a fine of \$50,000 or such
28 larger amount as is sufficient to exhaust the assets
29 utilized in and the proceeds from the illegal activity.

30 * * *

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

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

22 * * *

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

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

8 * * *

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