

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 508 Session of 2019

INTRODUCED BY BREWSTER, COSTA, HUGHES AND HAYWOOD, APRIL 3, 2019

REFERRED TO JUDICIARY, APRIL 3, 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 of Title 18 of the Pennsylvania  
7 Consolidated Statutes is amended to read:

8 § 7508. Drug trafficking sentencing and penalties.

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

12 (1) A person who is convicted of violating section 13(a)  
13 (14), (30) or (37) of the act of April 14, 1972 (P.L.233,  
14 No.64), known as The Controlled Substance, Drug, Device and  
15 Cosmetic Act, where the controlled substance is marijuana  
16 shall, upon conviction, be sentenced to a mandatory minimum  
17 term of imprisonment and a fine as set forth in this  
18 subsection:

19 (i) when the amount of marijuana involved is at

1 least two pounds, but less than ten pounds, or at least  
2 ten live plants but less than 21 live plants; one year in  
3 prison and a fine of \$5,000 or such larger amount as is  
4 sufficient to exhaust the assets utilized in and the  
5 proceeds from the illegal activity; however, if at the  
6 time of sentencing the defendant has been convicted of  
7 another drug trafficking offense: two years in prison and  
8 a fine of \$10,000 or such larger amount as is sufficient  
9 to exhaust the assets utilized in and the proceeds from  
10 the illegal activity;

11 (ii) when the amount of marijuana involved is at  
12 least ten pounds, but less than 50 pounds, or at least 21  
13 live plants but less than 51 live plants; three years in  
14 prison and a fine of \$15,000 or such larger amount as is  
15 sufficient to exhaust the assets utilized in and the  
16 proceeds from the illegal activity; however, if at the  
17 time of sentencing the defendant has been convicted of  
18 another drug trafficking offense: four years in prison  
19 and a fine of \$30,000 or such larger amount as is  
20 sufficient to exhaust the assets utilized in and the  
21 proceeds from the illegal activity; and

22 (iii) when the amount of marijuana involved is at  
23 least 50 pounds, or at least 51 live plants; five years  
24 in prison and a fine of \$50,000 or such larger amount as  
25 is sufficient to exhaust the assets utilized in and the  
26 proceeds from the illegal activity.

27 (2) A person who is convicted of violating section 13(a)  
28 (14), (30) or (37) of The Controlled Substance, Drug, Device  
29 and Cosmetic Act where the controlled substance or a mixture  
30 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 years in prison and a fine of \$25,000 or such  
28 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: seven  
2           years in prison and \$50,000 or such larger amount as is  
3           sufficient to exhaust the assets utilized in and the  
4           proceeds from the illegal activity.

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

17               (i) when the aggregate weight of the compound or  
18               mixture containing the substance involved is at least 2.0  
19               grams and less than ten grams; one year in prison and a  
20               fine of \$5,000 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: three years in prison and \$10,000 or  
25               such larger amount as is sufficient to exhaust the assets  
26               utilized in and the proceeds from the illegal activity;

27               (ii) when the aggregate weight of the compound or  
28               mixture containing the substance involved is at least ten  
29               grams and less than 100 grams; three years in prison and  
30               a fine of \$15,000 or such larger amount as is sufficient

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

8 (iii) when the aggregate weight of the compound or  
9 mixture of the substance involved is at least 100 grams;  
10 four years in prison and a fine of \$25,000 or such larger  
11 amount as is sufficient to exhaust the assets utilized in  
12 and the proceeds from the illegal activity; however, if  
13 at the time of sentencing the defendant has been  
14 convicted of another drug trafficking offense: seven  
15 years in prison and \$50,000 or such larger amount as is  
16 sufficient to exhaust the assets utilized in and the  
17 proceeds from the illegal activity.

18 (4) A person who is convicted of violating section 13(a)  
19 (14), (30) or (37) of The Controlled Substance, Drug, Device  
20 and Cosmetic Act where the controlled substance is  
21 methamphetamine or phencyclidine or is a salt, isomer or salt  
22 of an isomer of methamphetamine or phencyclidine or is a  
23 mixture containing methamphetamine or phencyclidine,  
24 containing a salt of methamphetamine or phencyclidine,  
25 containing an isomer of methamphetamine or phencyclidine,  
26 containing a salt of an isomer of methamphetamine or  
27 phencyclidine shall, upon conviction, be sentenced to a  
28 mandatory minimum term of imprisonment and a fine as set  
29 forth in this subsection:

30 (i) when the aggregate weight of the compound or

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

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

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

1 proceeds from the illegal activity.

2 (5) A person who is convicted of violating section 13(a)  
3 (14), (30) or (37) of The Controlled Substance, Drug, Device  
4 and Cosmetic Act, and who, in the course of the offense,  
5 manufactures, delivers, brings into this Commonwealth or  
6 possesses with intent to manufacture or deliver amphetamine  
7 or any salt, optical isomer, or salt of an optical isomer, or  
8 a mixture containing any such substances shall, when the  
9 aggregate weight of the compound or mixture containing the  
10 substance involved is at least five grams, be sentenced to  
11 two and one-half years in prison and a fine of \$15,000 or  
12 such larger amount as is sufficient to exhaust the assets  
13 utilized in and the proceeds from the illegal activity;  
14 however, if at the time of sentencing the defendant has been  
15 convicted of another drug trafficking offense: be sentenced  
16 to five years in prison and \$30,000 or such larger amount as  
17 is sufficient to exhaust the assets utilized in and the  
18 proceeds from the illegal activity.

19 (6) A person who is convicted of violating section 13(a)  
20 (14), (30) or (37) of The Controlled Substance, Drug, Device  
21 and Cosmetic Act where the controlled substance is  
22 methaqualone shall, upon conviction, be sentenced to a  
23 mandatory minimum term of imprisonment and a fine as set  
24 forth in this subsection:

25 (i) when the aggregate weight of the compound or  
26 mixture containing the substance involved is at least 50  
27 tablets, capsules, caplets or other dosage units, or 25  
28 grams and less than 200 tablets, capsules, caplets or  
29 other dosage units, or 100 grams; one year in prison and  
30 a fine of \$2,500 or such larger amount as is sufficient

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

8 (ii) when the aggregate weight of the compound or  
9 mixture containing the substance involved is at least 200  
10 tablets, capsules, caplets or other dosage units, or more  
11 than 100 grams; two and one-half years in prison and a  
12 fine of \$15,000 or such larger amount as is sufficient to  
13 exhaust the assets utilized in and the proceeds from the  
14 illegal activity; however, if at the time of sentencing  
15 the defendant has been convicted of another drug  
16 trafficking offense: five years in prison and \$30,000 or  
17 such larger amount as is sufficient to exhaust the assets  
18 utilized in and the proceeds from the illegal activity.

19 (7) A person who is convicted of violating section 13(a)  
20 (14), (30) or (37) of The Controlled Substance, Drug, Device  
21 and Cosmetic Act where the controlled substance or a mixture  
22 containing it is heroin shall, upon conviction, be sentenced  
23 as set forth in this paragraph:

24 (i) when the aggregate weight of the compound or  
25 mixture containing the heroin involved is at least 1.0  
26 gram but less than 5.0 grams the sentence shall be a  
27 mandatory minimum term of two years in prison and a fine  
28 of \$5,000 or such larger amount as is sufficient to  
29 exhaust the assets utilized in and the proceeds from the  
30 illegal activity; however, if at the time of sentencing

1 the defendant has been convicted of another drug  
2 trafficking offense: a mandatory minimum term of three  
3 years in prison and \$10,000 or such larger amount as is  
4 sufficient to exhaust the assets utilized in and the  
5 proceeds from the illegal activity;

6 (ii) when the aggregate weight of the compound or  
7 mixture containing the heroin involved is at least 5.0  
8 grams but less than 50 grams: a mandatory minimum term of  
9 three years in prison and a fine of \$15,000 or such  
10 larger amount as is sufficient to exhaust the assets  
11 utilized in and the proceeds from the illegal activity;  
12 however, if at the time of sentencing the defendant has  
13 been convicted of another drug trafficking offense: a  
14 mandatory minimum term of five years in prison and  
15 \$30,000 or such larger amount as is sufficient to exhaust  
16 the assets utilized in and the proceeds from the illegal  
17 activity; and

18 (iii) when the aggregate weight of the compound or  
19 mixture containing the heroin involved is 50 grams or  
20 greater: a mandatory minimum term of five years in prison  
21 and a fine of \$25,000 or such larger amount as is  
22 sufficient to exhaust the assets utilized in and the  
23 proceeds from the illegal activity; however, if at the  
24 time of sentencing the defendant has been convicted of  
25 another drug trafficking offense: a mandatory minimum  
26 term of seven years in prison and \$50,000 or such larger  
27 amount as is sufficient to exhaust the assets utilized in  
28 and the proceeds from the illegal activity.

29 (8) A person who is convicted of violating section 13(a)  
30 (12), (14) or (30) of The Controlled Substance, Drug, Device

1 and Cosmetic Act where the controlled substance or a mixture  
2 containing it is 3,4-methylenedioxyamphetamine (MDA); 3,4-  
3 methylenedioxyamphetamine (MDMA); 5-methoxy-3,4-  
4 methylenedioxyamphetamine (MMDA); 3,4-methylenedioxy-N-  
5 ethylamphetamine; N-hydroxy-3,4-methylenedioxyamphetamine; or  
6 their salts, isomers and salts of isomers, whenever the  
7 existence of such salts, isomers and salts of isomers is  
8 possible within the specific chemical designation, shall,  
9 upon conviction, be sentenced as set forth in this paragraph:

10 (i) When the aggregate weight of the compound or  
11 mixture containing the substance involved is at least 50  
12 tablets, capsules, caplets or other dosage units, or 15  
13 grams and less than 100 tablets, capsules, caplets or  
14 other dosage units, or less than 30 grams, the person is  
15 guilty of a felony and, upon conviction thereof, shall be  
16 sentenced to imprisonment not exceeding five years or to  
17 pay a fine not exceeding \$15,000, or both.

18 (ii) When the aggregate weight of the compound or  
19 mixture containing the substance involved is at least 100  
20 tablets, capsules, caplets or other dosage units, or 30  
21 grams and less than 1,000 tablets, capsules, caplets or  
22 other dosage units, or less than 300 grams, the person is  
23 guilty of a felony and, upon conviction thereof, shall be  
24 sentenced to imprisonment not exceeding ten years or to  
25 pay a fine not exceeding \$100,000, or both.

26 (iii) When the aggregate weight of the compound or  
27 mixture containing the substance involved is at least  
28 1,000 tablets, capsules, caplets or other dosage units,  
29 or 300 grams, the person is guilty of a felony and, upon  
30 conviction thereof, shall be sentenced to imprisonment

1 not exceeding 15 years or to pay a fine not exceeding  
2 \$250,000, or both.

3 (a.1) Previous conviction.--For purposes of this section, it  
4 shall be deemed that a defendant has been convicted of another  
5 drug trafficking offense when the defendant has been convicted  
6 of another offense under section 13(a)(14), (30) or (37) of The  
7 Controlled Substance, Drug, Device and Cosmetic Act, or of a  
8 similar offense under any statute of any state or the United  
9 States, whether or not judgment of sentence has been imposed  
10 concerning that offense.

11 (b) Proof of sentencing.--Provisions of this section shall  
12 not be an element of the crime. Notice of the applicability of  
13 this section to the defendant shall not be required prior to  
14 conviction, but reasonable notice of the Commonwealth's  
15 intention to proceed under this section shall be provided after  
16 conviction and before sentencing. The applicability of this  
17 section shall be determined at sentencing. The court shall  
18 consider evidence presented at trial, shall afford the  
19 Commonwealth and the defendant an opportunity to present  
20 necessary additional evidence and shall determine, by a  
21 preponderance of the evidence, if this section is applicable.

22 (c) Mandatory sentencing.--There shall be no authority in  
23 any court to impose on an offender to which this section is  
24 applicable a lesser sentence than provided for herein or to  
25 place the offender on probation, parole or work release or to  
26 suspend sentence. Nothing in this section shall prevent the  
27 sentencing court from imposing a sentence greater than provided  
28 herein. Sentencing guidelines promulgated by the Pennsylvania  
29 Commission on Sentencing shall not supersede the mandatory  
30 sentences provided herein. Disposition under section 17 or 18 of

1 The Controlled Substance, Drug, Device and Cosmetic Act shall  
2 not be available to a defendant to which this section applies.

3 (d) Appellate review.--If a sentencing court refuses to  
4 apply this section where applicable, the Commonwealth shall have  
5 the right to appellate review of the action of the sentencing  
6 court. The appellate court shall vacate the sentence and remand  
7 the case to the sentencing court for imposition of a sentence in  
8 accordance with this section if it finds that the sentence was  
9 imposed in violation of this section.

10 (e) Forfeiture.--Assets against which a forfeiture petition  
11 has been filed and is pending or against which the Commonwealth  
12 has indicated an intention to file a forfeiture petition shall  
13 not be subject to a fine. Nothing in this section shall prevent  
14 a fine from being imposed on assets which have been subject to  
15 an unsuccessful forfeiture petition.

16 (f) Growing plants.--When the controlled substance is  
17 marijuana in the form of growing plants and the number of plants  
18 is nine or less, weighing may be accomplished by law enforcement  
19 officials utilizing any certified scale convenient to the place  
20 of arrest for the purpose of determining the weight of the  
21 growing marijuana plant. The aggregate weight of the plant is to  
22 include the whole plant including the root system if possible.  
23 The weight is not to include any substance not a part of the  
24 growing plant.]

25 (a) General rule.--A person commits an offense when the  
26 person is in possession of a controlled substance under  
27 subsection (b), (c), (d), (e), (f), (g) or (h) that would  
28 constitute a violation of section 13(a)(14), (30) or (37) of the  
29 act of April 14, 1972 (P.L.233, No.64), known as The Controlled  
30 Substance, Drug, Device and Cosmetic Act, and where the person

1 was in possession of a firearm in violation of the following:

2 (1) section 6105 (relating to persons not to possess,  
3 use, manufacture, control, sell or transfer firearms);

4 (2) section 6106 (relating to firearms not to be carried  
5 without a license); or

6 (3) section 6110.2 (relating to possession of firearm  
7 with altered manufacturer's number).

8 (b) Marijuana.--An offense under subsection (a) where the  
9 controlled substance is marijuana shall be graded as follows:

10 (1) A misdemeanor of the first degree when the amount of  
11 marijuana involved is at least 2 pounds but less than 10  
12 pounds, or at least 10 live plants but less than 21 live  
13 plants.

14 (2) A felony of the third degree when the amount of  
15 marijuana involved is at least 10 pounds but less than 50  
16 pounds, or at least 21 live plants but less than 51 live  
17 plants.

18 (3) A felony of the second degree when the amount of  
19 marijuana involved is 50 pounds or greater or 51 or more live  
20 plants.

21 (c) Schedule I or II narcotics.--An offense under subsection  
22 (a) where the controlled substance or a mixture containing the  
23 controlled substance is classified in Schedule I or Schedule II  
24 under section 4 of The Controlled Substance, Drug, Device and  
25 Cosmetic Act and is a narcotic drug shall be graded as follows:

26 (1) A misdemeanor of the first degree when the aggregate  
27 weight of the compound or mixture containing the substance  
28 involved is at least 2 grams but less than 10 grams.

29 (2) A felony of the third degree when the aggregate  
30 weight of the compound or mixture containing the substance

1 involved is at least 10 grams but less than 100 grams.

2 (3) A felony of the second degree when the aggregate  
3 weight of the compound or mixture containing the substance  
4 involved is 100 grams or greater.

5 (d) Coca leaves.--An offense under subsection (a) where the  
6 controlled substance is coca leaves, a salt, compound,  
7 derivative or preparation of coca leaves, a salt, compound,  
8 derivative or preparation that is chemically equivalent or  
9 identical to any of these substances or a mixture containing any  
10 of these substances except decocainized coca leaves or extracts  
11 of coca leaves that do not contain cocaine or ecgonine shall be  
12 graded as follows:

13 (1) A misdemeanor of the first degree when the aggregate  
14 weight of the compound or mixture containing the substance  
15 involved is at least 2 grams but less than 10 grams.

16 (2) A felony of the third degree when the aggregate  
17 weight of the compound or mixture containing the substance  
18 involved is at least 10 grams but less than 100 grams.

19 (3) A felony of the second degree when the aggregate  
20 weight of the compound or mixture of the substance involved  
21 is 100 grams or greater.

22 (e) Methamphetamine or phencyclidine.--An offense under  
23 subsection (a) where the controlled substance is methamphetamine  
24 or phencyclidine, a salt, isomer or salt of an isomer of  
25 methamphetamine or phencyclidine or a mixture containing any of  
26 these substances shall be graded as follows:

27 (1) A misdemeanor of the first degree when the aggregate  
28 weight of the compound or mixture containing the substance  
29 involved is at least 5 grams but less than 10 grams.

30 (2) A felony of the third degree when the aggregate

1 weight of the compound or mixture containing the substance  
2 involved is at least 10 grams but less than 100 grams.

3 (3) A felony of the second degree when the aggregate  
4 weight of the compound or mixture containing the substance  
5 involved is 100 grams or greater.

6 (f) Heroin.--An offense under subsection (a) where the  
7 controlled substance is heroin or a mixture containing heroin  
8 shall be graded as follows:

9 (1) A misdemeanor of the first degree when the aggregate  
10 weight of the compound or mixture containing the heroin  
11 involved is at least one gram but less than five grams.

12 (2) A felony of the third degree when the aggregate  
13 weight of the compound or mixture containing the heroin  
14 involved is at least 5 grams but less than 50 grams.

15 (3) A felony of the second degree when the aggregate  
16 weight of the compound or mixture containing the heroin  
17 involved is 50 grams or greater.

18 (g) MDA, MDMA and MMDA.--An offense under subsection (a)  
19 where the controlled substance or a mixture containing the  
20 controlled substance is 3,4-methylenedioxyamphetamine (MDA);  
21 3,4-methylenedioxymethamphetamine (MDMA); 5-methoxy-3,4-  
22 methylenedioxyamphetamine (MMDA); 3,4-methylenedioxy-N-  
23 ethylamphetamine; N-hydroxy-3,4-methylenedioxyamphetamine; or  
24 their salts, isomers and salts of isomers, whenever the  
25 existence of such salts, isomers and salts of isomers is  
26 possible within the specific chemical designation, shall be  
27 graded as follows:

28 (1) A felony of the third degree when the aggregate  
29 weight of the compound or mixture containing the substance  
30 involved is at least 50 tablets, capsules, caplets or other

1 dosage units or at least 15 grams, but less than 100 tablets,  
2 capsules, caplets or other dosage units or less than 30  
3 grams.

4 (2) A felony of the second degree when the aggregate  
5 weight of the compound or mixture containing the substance  
6 involved is 100 or more tablets, capsules, caplets or other  
7 dosage units or 30 grams or greater.

8 (h) Methaqualone.--An offense under subsection (a) where the  
9 controlled substance is methaqualone shall be graded as follows:

10 (1) A misdemeanor of the first degree when the aggregate  
11 weight of the compound or mixture containing the substance  
12 involved is at least 50 tablets, capsules, caplets or other  
13 dosage units or at least 25 grams, but less than 200 tablets,  
14 capsules, caplets or other dosage units or less than 100  
15 grams.

16 (2) A felony of the third degree when the aggregate  
17 weight of the compound or mixture containing the substance  
18 involved is 200 or more tablets, capsules, caplets or other  
19 dosage units, or 100 grams or greater.

20 (i) Additional offense.--A person who manufactures,  
21 delivers, brings into this Commonwealth or possesses with intent  
22 to manufacture or deliver amphetamine or any salt, optical  
23 isomer, salt of an optical isomer or mixture containing any such  
24 substances, when the aggregate weight of the compound or mixture  
25 containing the substance involved is at least five grams, shall,  
26 upon conviction, be sentenced to two and one-half years in  
27 prison and a fine of \$15,000 or a larger amount as is sufficient  
28 to exhaust the assets utilized in and the proceeds from the  
29 illegal activity. If, at the time of sentencing, the defendant  
30 has been convicted of another drug trafficking offense, the

1 defendant shall be sentenced to five years in prison and a fine  
2 of \$30,000 or a larger amount as is sufficient to exhaust the  
3 assets utilized in and the proceeds from the illegal activity.

4 (j) Previous conviction.--A second or subsequent offense  
5 under this section or a prior conviction for drug trafficking  
6 shall increase the grade of the offense by one degree. For  
7 purposes of this section, a defendant shall be deemed to have  
8 been convicted of another drug trafficking offense when the  
9 defendant has been convicted of another offense under section  
10 13(a) (14), (30) or (37) of The Controlled Substance, Drug,  
11 Device and Cosmetic Act or of a similar offense under any  
12 statute of any state or the United States or any territory or  
13 possession thereof, whether or not judgment of sentence has been  
14 imposed concerning that offense.

15 (k) Forfeiture.--Assets against which a forfeiture petition  
16 has been filed and is pending or against which the Commonwealth  
17 has indicated an intention to file a forfeiture petition shall  
18 not be subject to a fine. Nothing in this section may prevent a  
19 fine from being imposed on assets that have been subject to an  
20 unsuccessful forfeiture petition.

21 (l) Live plants.--When the controlled substance is marijuana  
22 in the form of live plants and the number of plants is nine or  
23 less, weighing may be accomplished by law enforcement officials  
24 utilizing a certified scale convenient to the place of arrest  
25 for the purpose of determining the weight of the live marijuana  
26 plant. The aggregate weight of the plant includes the whole  
27 plant, including the root system if possible. The weight does  
28 not include any substance that is not a part of the live plant.

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