
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 627 Session of
2023

INTRODUCED BY BREWSTER, FONTANA AND COSTA, APRIL 28, 2023

REFERRED TO JUDICIARY, APRIL 28, 2023

AN ACT

1 Amending Titles 3 (Agriculture), 18 (Crimes and Offenses), 42
2 (Judiciary and Judicial Procedure) and 61 (Prisons and
3 Parole) of the Pennsylvania Consolidated Statutes, in other
4 offenses, further providing for drug trafficking sentencing
5 and penalties; and making conforming amendments.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Sections 704(a) and 706 of Title 3 of the
9 Pennsylvania Consolidated Statutes are amended to read:

10 § 704. Growth and cultivation.

11 (a) Authorization.--Industrial hemp may be grown or
12 cultivated by the department or an institution of higher
13 education for the purposes of research conducted under an
14 agricultural pilot program in compliance with subsection (b),
15 notwithstanding:

16 (1) The Controlled Substances Act (Public Law 91-513, 84
17 Stat. 1236, 21 U.S.C. § 801 et seq.).

18 (2) (Reserved).

19 (3) 41 U.S.C. Ch. 81 (relating to drug-free workplace).

20 (4) Section 4(1)(vii)1 of the act of April 14, 1972

1 (P.L.233, No.64), known as The Controlled Substance, Drug,
2 Device and Cosmetic Act.

3 (5) 18 Pa.C.S. § [7508(a)(1)] 7508(g) (relating to drug
4 trafficking sentencing and penalties), where the controlled
5 substance is marijuana.

6 (6) Any other Federal law or State law.

7 * * *

8 § 706. Noncriminal offense.

9 An activity conducted in compliance with this chapter shall
10 not be in violation of the laws of the Commonwealth including:

11 (1) The act of April 14, 1972 (P.L.233, No.64), known as
12 The Controlled Substance, Drug, Device and Cosmetic Act.

13 (2) 18 Pa.C.S. § [7508(a)(1)] 7508(g) (relating to drug
14 trafficking sentencing and penalties), where the controlled
15 substance is marijuana.

16 (3) Any other law of the Commonwealth regulating the
17 growth or cultivation of industrial hemp.

18 Section 2. Section 7508 of Title 18 is amended to read:

19 § 7508. Drug trafficking sentencing and penalties.

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

23 (1) A person who is convicted of violating section 13(a)
24 (14), (30) or (37) of the act of April 14, 1972 (P.L.233,
25 No.64), known as The Controlled Substance, Drug, Device and
26 Cosmetic Act, where the controlled substance is marijuana
27 shall, upon conviction, be sentenced to a mandatory minimum
28 term of imprisonment and a fine as set forth in this
29 subsection:

30 (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 (g) Offense defined.--A person commits an offense when the
26 person is in possession of a controlled substance under
27 subsection (h), (i), (j), (k), (l), (m) or (n) 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 (h) Marijuana.--An offense under subsection (g) 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 (i) Schedule I or II narcotics.--An offense under subsection
22 (g) 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 (j) Coca leaves.--An offense under subsection (g) 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 (k) Methamphetamine or phencyclidine.--An offense under
23 subsection (g) 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 (1) Heroin.--An offense under subsection (g) 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 (m) MDA, MDMA and MMDA.--An offense under subsection (g)
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 (n) Methaqualone.--An offense under subsection (g) 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 (o) 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 (p) Previous conviction.--

5 (1) A second or subsequent offense under this section or
6 a prior conviction for drug trafficking shall increase the
7 grade of the offense by one degree.

8 (2) For purposes of this section, a defendant shall be
9 deemed to have been convicted of another drug trafficking
10 offense when the defendant has been convicted of another
11 offense under section 13(a)(14), (30) or (37) of The
12 Controlled Substance, Drug, Device and Cosmetic Act or of a
13 similar offense under any statute of any state or the United
14 States or any territory or possession thereof, whether or not
15 judgment of sentence has been imposed concerning that
16 offense.

17 (g) Forfeiture.--

18 (1) Assets against which a forfeiture petition has been
19 filed and is pending or against which the Commonwealth has
20 indicated an intention to file a forfeiture petition shall
21 not be subject to a fine.

22 (2) Nothing in this section shall be construed to
23 prevent a fine from being imposed on assets that have been
24 subject to an unsuccessful forfeiture petition.

25 (r) Live plants.--When the controlled substance is marijuana
26 in the form of live plants and the number of plants is nine or
27 less, weighing may be accomplished by law enforcement officials
28 utilizing a certified scale convenient to the place of arrest
29 for the purpose of determining the weight of the live marijuana
30 plant. The aggregate weight of the plant includes the whole

1 plant, including the root system if possible. The weight does
2 not include any substance that is not a part of the live plant.

3 Section 3. Section 9712.1(b) of Title 42 is amended to read:

4 § 9712.1. Sentences for certain drug offenses committed with
5 firearms.

6 * * *

7 (b) Limitation on aggregate sentences.--Where a defendant is
8 subject to a [mandatory minimum] sentence under 18 Pa.C.S. §
9 [7508(a)] 7508(g) (relating to drug trafficking sentencing and
10 penalties) and is also subject to an additional penalty under
11 subsection (a) and where the court elects to aggregate these
12 penalties, the combined minimum sentence may not exceed the
13 statutory maximum sentence of imprisonment allowable under The
14 Controlled Substance, Drug, Device and Cosmetic Act.

15 * * *

16 Section 4. The definition of "defendant" in section 4103 of
17 Title 61 is amended to read:

18 § 4103. Definitions.

19 The following words and phrases when used in this chapter
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 * * *

23 "Defendant." An individual charged with a drug-related
24 offense, including an individual convicted of violating section
25 13(a)(14), (30) or (37) of the act of April 14, 1972 (P.L.233,
26 No.64), known as The Controlled Substance, Drug, Device and
27 Cosmetic Act, where the sentence was imposed pursuant to 18
28 Pa.C.S. § [7508(a)(1)(i), (2)(i), (3)(i), (4)(i) or (7)(i)]
29 7508(h)(1), (i)(1), (j)(1), (k)(1) or (l)(1) (relating to drug
30 trafficking sentencing and penalties).

1 * * *

2 Section 5. This act shall take effect in 60 days.