

No. 1995-18 (SS1)

AN ACT

HB 24

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for a mandatory minimum penalty for delivery of contraband to certain confined persons; and prohibiting possession of a controlled substance by an inmate.

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

Section 1. Section 5123 of Title 18 of the Pennsylvania Consolidated Statutes is amended by adding subsections to read:

§ 5123. Contraband.

* * *

(a.1) Mandatory minimum penalty.—Any person convicted of a violation of subsection (a) shall be sentenced to a minimum sentence of at least two years of total confinement, notwithstanding any other provision of this title or any other statute to the contrary. Nothing in this subsection shall prevent the sentencing court from imposing a sentence greater than that provided in this subsection, up to the maximum penalty prescribed by this title for a felony of the second degree. There shall be no authority in any court to impose on an offender to which this subsection is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this subsection. If a sentencing court refuses to apply this subsection where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this subsection if it finds that the sentence was imposed in violation of this subsection.

(a.2) Possession of controlled substance contraband by inmate prohibited.—A prisoner or inmate commits a misdemeanor of the first degree if he unlawfully has in his possession or under his control any controlled substance in violation of section 13(a)(16) of The Controlled Substance, Drug, Device and Cosmetic Act. For purposes of this subsection, no amount shall be deemed de minimis.

* * *

(d) Drug-sniffing animals.—Any jail or prison may use dogs or other animals trained to sniff controlled substances or other contraband for such purposes in or on any part of the jail or prison at any time.

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

APPROVED—The 6th day of July, A.D. 1995.

THOMAS J. RIDGE