

No. 2004-108

AN ACT

HB 2724

Amending the act of April 14, 1972 (P.L.233, No.64), entitled "An act relating to the manufacture, sale and possession of controlled substances, other drugs, devices and cosmetics; conferring powers on the courts and the secretary and Department of Health, and a newly created Pennsylvania Drug, Device and Cosmetic Board; establishing schedules of controlled substances; providing penalties; requiring registration of persons engaged in the drug trade and for the revocation or suspension of certain licenses and registrations; and repealing an act," providing for the definition of "structure"; and further providing for prohibited acts and penalties.

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

Section 1. Section 2(b) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, is amended by adding a definition to read:

Section 2. Definitions.—* * *

(b) As used in this act:

* * *

"Structure" means any house, apartment building, shop, warehouse, barn, building, vessel, railroad car, cargo container, motor vehicle, housecar, trailer, trailer coach, camper, mine, floating home, or other enclosed structure capable of holding a child and manufacturing equipment.

* * *

Section 2. Section 13(a) of the act is amended by adding a clause and the section is amended by adding a subsection to read:

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

* * *

(38) The unlawful manufacture of methamphetamine or phencyclidine or their salts, isomers and salts of isomers, whenever the existence of such salts, isomers or salts of isomers is possible within the specific chemical designation:

(i) in a structure where any child under 18 years of age is present; or

(ii) where the manufacturing of methamphetamine or phencyclidine causes any child under 18 years of age to suffer bodily injury.

* * *

(p) (1) Any person who violates subsection (a)(38)(i) is guilty of a felony of the third degree and upon conviction thereof shall be sentenced to not more than seven years in prison and a fine of not more than twenty-five thousand dollars (\$25,000), or such larger amount as is sufficient to

exhaust the assets utilized in and the profits obtained from the illegal activity.

(2) Any person who violates subsection (a)(38)(ii) is guilty of a felony of the second degree and upon conviction thereof shall be sentenced to not more than ten years in prison and a fine of not more than fifty thousand dollars (\$50,000), or such larger amount as is sufficient to exhaust the assets utilized in and the profits obtained from the illegal activity.

Section 3. This act shall take effect in 60 days.

APPROVED—The 19th day of November, A.D. 2004.

EDWARD G. RENDELL