

No. 1997-8

AN ACT

HB 152

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for sentencing and penalties for trafficking drugs to minors; prohibiting the provision of certain stimulants to minors; and providing penalties.

The General Assembly finds and declares as follows:

(1) That look-alike or act-alike drugs are those drugs which are regularly marketed as stimulants or weight-loss aids and in their appearance look and in their effect act upon the body like illegal stimulants containing amphetamines.

(2) That look-alike or act-alike drugs are composed of various forms of ephedrine.

(3) That these look-alike or act-alike drugs are readily available to the public, regardless of age.

(4) That many children employ the use of look-alike or act-alike drugs as a starter drug prior to the use of illegal controlled substances.

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

Section 1. Section 6314(b) of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 6314. Sentencing and penalties for trafficking drugs to minors.

* * *

(b) Additional penalties.—In addition to the mandatory minimum sentence set forth in subsection (a), the person shall be sentenced to an additional minimum sentence of at least two years total confinement, notwithstanding any other provision of this title or other statute to the contrary, if the person did any of the following:

(1) Committed the offense with the intent to promote the habitual use of the controlled substance.

(2) Intended to engage the minor in the trafficking, transportation, delivery, manufacturing, sale or conveyance.

(3) Committed the offense within 1,000 feet of the real property on which is located a public, private or parochial school or a college or university.

(4) *Committed the offense on a school bus or within 500 feet of a school bus stop.*

* * *

Section 2. Title 18 is amended by adding a section to read:
§ 6316. *Selling or furnishing certain stimulants to minors.*

(a) *Offense defined.*—A person commits a summary offense if he knowingly sells or purchases with the intent to sell ephedrine to a person who is less than 18 years of age.

(b) *Penalty.*—A person who is convicted of violating subsection (a) shall be sentenced to pay a fine of not less than \$250 nor more than \$500 for the first violation and a fine of \$500 for each subsequent violation.

(c) *Definitions.*—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Ephedrine.”

(1) Except as provided in paragraph (2), any product that contains any quantity of ephedrine, a salt of ephedrine, an optical isomer of ephedrine or a salt of an optical isomer of ephedrine.

(2) The term does not include a product containing ephedrine if it may lawfully be sold over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.); is labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph; is manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse; and as described as follows:

(i) Solid oral dosage forms, including soft gelatin caplets, that combine active ingredients in the following ranges for each dosage unit:

(A) Theophylline (100-130 mg), ephedrine (12.5-24 mg).

(B) Theophylline (60-100 mg), ephedrine (12.5-24 mg), guaifenesin (200-400 mg).

(C) Ephedrine (12.5-25 mg), guaifenesin (200-400 mg).

(D) Phenobarbital (not greater than 8 mg) in combination with the ingredients of clause (A) or (B).

(ii) Liquid oral dosage forms that combine active ingredients in the following ranges for each 5 ml dose:

(A) Theophylline (not greater than 45 mg), ephedrine (not greater than 36 mg), guaifenesin (not greater than 100 mg), phenobarbital (not greater than 12 mg).

(B) Phenylephrine (not greater than 5 mg), ephedrine (not greater than 5 mg), chlorpheniramine (not greater than 2 mg), dextromethorphan (not greater than 10 mg), ammonium Cl (not greater than 40 mg), ipecac fluid extract (not greater than 0.005 ml).

(iii) Anorectal preparations containing less than 5% ephedrine.

(iv) Any liquid compound, mixture or preparation containing 0.5% or less of ephedrine.

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

APPROVED—The 9th day of May, A.D. 1997.

THOMAS J. RIDGE