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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 687 Session of  
2021

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INTRODUCED BY REGAN, LANGERHOLC, LAUGHLIN, PHILLIPS-HILL,  
MARTIN, MENSCH, HUTCHINSON, PITTMAN AND MASTRIANO,  
MAY 14, 2021

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REFERRED TO JUDICIARY, MAY 14, 2021

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in sentencing, further  
3 providing for sentences for certain drug offenses committed  
4 with firearms.

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

7 Section 1. Section 9712.1(c) and (e) of Title 42 of the  
8 Pennsylvania Consolidated Statutes are amended to read:

9 § 9712.1. Sentences for certain drug offenses committed with  
10 firearms.

11 \* \* \*

12 (c) [Proof at sentencing.--Provisions of this section shall  
13 not be an element of the crime, and notice thereof to the  
14 defendant shall not be required prior to conviction, but  
15 reasonable notice of the Commonwealth's intention to proceed  
16 under this section shall be provided after conviction and before  
17 sentencing. The applicability of this section shall be  
18 determined at sentencing. The court shall consider any evidence

1 presented at trial and shall afford the Commonwealth and the  
2 defendant an opportunity to present any necessary additional  
3 evidence and shall determine, by a preponderance of the  
4 evidence, if this section is applicable.] Application of  
5 mandatory minimum penalty.--Any provision of this section that  
6 requires imposition of a mandatory minimum sentence shall  
7 constitute an element enhancing the underlying offense. Any  
8 enhancing element must be proven beyond a reasonable doubt at  
9 trial on the underlying offense and must be submitted to the  
10 fact-finder for deliberation together with the underlying  
11 offense. If the fact-finder finds the defendant guilty of the  
12 underlying offense, the fact-finder shall then also decide  
13 whether any enhancing element has been proven.

14 \* \* \*

15 (e) Appeal by Commonwealth.--[If a sentencing court refuses  
16 to apply this section where applicable, the Commonwealth shall  
17 have the right to appellate review of the action of the  
18 sentencing court. The appellate court shall vacate the sentence  
19 and remand the case to the sentencing court for imposition of a  
20 sentence in accordance with this section if it finds that the  
21 sentence was imposed in violation of this section.] If the fact-  
22 finder has found any enhancing element and a sentencing court  
23 imposes a sentence below the mandatory minimum sentence, the  
24 Commonwealth shall have the right to appellate review of the  
25 sentence. If the appellate court finds that the mandatory  
26 sentencing provision was applicable, the court shall vacate the  
27 sentence and remand the case for resentencing in accordance with  
28 that provision.

29 \* \* \*

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