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Reps. Spence, Fallon, Hudson, Lavelle, Maier, Miro, Oberle, Stone,  
Wagner, Gilligan, VanSant, Ennis, George, Hall-Long, Johnson,  
Keeley, Longhurst, McWilliams, Mulrooney, Plant, Schooley, Viola;  
Sens. Bunting, Henry, Peterson, Sokola, Cloutier, Copeland, Simpson

HOUSE OF REPRESENTATIVES

143rd GENERAL ASSEMBLY

HOUSE BILL NO. 181

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO DRUG OFFENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4751, Title 16 of the Delaware Code by deleting subsection (d) in its entirety.

Section 2. Amend § 4753A, Title 16 of the Delaware Code by deleting subsections (a), (b), (c), and (d) in their entirety, by redesignating subsection (e) thereof as subsection (c), and by inserting therein as new subsections (a) and (b) the following:

“(a) Except as authorized in this Chapter, any person who, on any single occasion, knowingly sells, manufactures, delivers or brings into this State, or who is knowingly in actual or constructive possession of illegal drugs, in excess of the prescribed amounts outlined in subsection (b), is guilty of a Class C felony, known as Trafficking in Illegal Drugs, and shall be sentenced as provided for Class C felonies and in addition shall be fined not less than \$5,000 nor more than \$50,000.

(b) This law applies if the quantity involved is:

(1) 5 pounds or more of marijuana;

(2) 10 grams or more of cocaine or of any mixture containing cocaine, as described in § 4716(b)(4) of this Title;

(3) 2.5 grams or more of morphine, opium, or any salt, isomer or salt of an isomer thereof, or any mixture containing any such substance as described in § 4714 of this Title, or 2.5 grams or more of any mixture containing any such substance;

(4) 5 grams or more of methamphetamine, including its salt, isomer or salt of an isomer thereof, or any mixture containing any such substance as described in § 4716(d)(3) of this Title;

(5) 5 grams or more of amphetamine, including its salt, optical isomers and salt of its optical isomers, or of any mixture containing any such substance, as described in § 4716(e)(1) of this Title;

(6) 5 grams or more of phencyclidine, or of any mixture containing any such substance, as described in § 4716(e)(5) of this Title;

(7) 50 doses or more (each dose constitutes up to 100 micrograms) or in a liquid form 5 milligrams or more of lysergic acid diethylamide (L.S.D.), or of any mixture containing such substance, as described in § 4714(d)(9) of this Title;

(8) 25 or more doses or tablets, or 5 or more grams, or 5 milliliters or more of a designer drug or any mixture containing any such substance, as described in § 4701(9) of this Title; or

(9) 25 or more doses or tablets, or 5 or more grams, or 5 milliliters or more of 3,4-methylenedioxy-methamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers; or any mixture containing such substance, as described in § 4714(d)(21) of this Title.”.

Section 3. Amend § 4761(a), Title 16 of the Delaware Code by deleting paragraphs (3) and (4) in their entirety.

Section 4. Amend § 4761A(a), Title 16 of the Delaware Code by deleting paragraphs (3) and (4) in their entirety.

Section 5. Amend § 4763(a), Title 16 of the Delaware Code by deleting paragraph (2) in its entirety.

Section 6. The provisions of this Act will take effect with respect to all crimes that are committed as of 12:01 a.m., August 1, 2005, or thereafter. Notwithstanding the provisions of § 4217 of Title 11 or any other statute, rule or regulation, any person sentenced for violation of any provision of Chapter 47 of Title 16 prior to the enactment of this Act may apply to the Court in which the conviction occurred for re-sentencing pursuant to the provisions of this Act. In any such re-sentencing, the Court may take into consideration the conduct of the person since the time of incarceration.

Section 7. This Act shall be known and may be cited as “The Mandatory Minimum Drug Sentencing Reform Act”.

#### SYNOPSIS

This Bill repeals mandatory minimum sentences in Title 16 relating to violations of our drug laws, returning to our State’s outstanding judiciary the discretion to pronounce sentences appropriate to the cases and individuals before them.

Delaware’s sentencing guidelines and Truth-in-Sentencing Law will remain in force, helping to guide judges in their decisions and ensuring offenders’ completion of their sentences.

Allowing judges to individually craft criminal sentences will result in more accurate sentences, thereby reducing the injustice, elevated incarcerated population, and excessive cost risked by one-size-fits-all mandatory minimum drug sentencing laws. With such discretion, judges will be equipped to identify drug dealers and imprison them, to recognize those in need of drug treatment and treat them, and to handle all offenders as unique individuals and sentence them appropriately.