

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 80 Session of 2013

INTRODUCED BY METCALFE, CLYMER, D. COSTA, COX, GILLEN, GROVE,
C. HARRIS, HESS, KAUFFMAN, KORTZ, LONGIETTI, MILLARD,
O'NEILL, PASHINSKI, PETRI, READSHAW, ROCK, SAYLOR, SWANGER,
TOEPEL, WATSON, FREEMAN, R. MILLER, MULLERY, GABLER, FARRY,
EVANKOVICH, TOOHIL, MARSHALL AND CALTAGIRONE,
JANUARY 10, 2013

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 15, 2014

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, IN BURGLARY AND OTHER CRIMINAL <--
3 INTRUSION, FURTHER PROVIDING FOR THE OFFENSE OF CRIMINAL <--
4 TRESPASS; defining the offense of theft of secondary metal;
5 and prescribing penalties; AND, IN FIREARMS AND OTHER <--
6 DANGEROUS ARTICLES, FURTHER PROVIDING FOR PENNSYLVANIA STATE
7 POLICE AND FOR LIMITATION ON THE REGULATION OF FIREARMS AND
8 AMMUNITION.

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

11 ~~Section 1. Title 18 of the Pennsylvania Consolidated~~ <--
12 ~~Statutes is amended by adding a section to read:~~

13 ~~SECTION 1. SECTION 3503(B.1) OF TITLE 18 OF THE PENNSYLVANIA~~ <--
14 ~~CONSOLIDATED STATUTES IS AMENDED TO READ:~~

15 SECTION 1. SECTION 3503(B.1) AND (D) OF TITLE 18 OF THE <--
16 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

17 § 3503. CRIMINAL TRESPASS.

18 * * *

1 (B.1) SIMPLE TRESPASSER.--

2 (1) A PERSON COMMITS AN OFFENSE IF, KNOWING THAT HE IS
3 NOT LICENSED OR PRIVILEGED TO DO SO, HE ENTERS OR REMAINS IN
4 ANY PLACE FOR THE PURPOSE OF:

5 (I) THREATENING OR TERRORIZING THE OWNER OR OCCUPANT
6 OF THE PREMISES;

7 (II) STARTING OR CAUSING TO BE STARTED ANY FIRE UPON
8 THE PREMISES; [OR]

9 (III) DEFACING OR DAMAGING THE PREMISES[.]; OR

10 (IV) UNLAWFULLY TAKING SECONDARY METAL FROM THE
11 PREMISES.

12 (2) AN OFFENSE UNDER [THIS SUBSECTION] PARAGRAPH (1)(IV)
13 CONSTITUTES A FIRST DEGREE MISDEMEANOR. AN OFFENSE UNDER
14 PARAGRAPH (1)(I), (II) OR (III) CONSTITUTES A SUMMARY
15 OFFENSE.

16 * * *

17 (D) [DEFINITION.--AS USED IN THIS SECTION, THE TERM "SCHOOL <--
18 GROUNDS" MEANS ANY] DEFINITIONS.--AS USED IN THIS SECTION, THE
19 FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO
20 THEM IN THIS SUBSECTION:

21 "SCHOOL GROUNDS." ANY BUILDING OF OR GROUNDS OF ANY
22 ELEMENTARY OR SECONDARY PUBLICLY FUNDED EDUCATIONAL INSTITUTION,
23 ANY ELEMENTARY OR SECONDARY PRIVATE SCHOOL LICENSED BY THE
24 DEPARTMENT OF EDUCATION, ANY ELEMENTARY OR SECONDARY PAROCHIAL
25 SCHOOL, ANY CERTIFIED DAY-CARE CENTER OR ANY LICENSED PRESCHOOL
26 PROGRAM.

27 "SECONDARY METAL." AS DEFINED IN SECTION 3935 (RELATING TO
28 THEFT OF SECONDARY METAL).

29 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:
30 § 3935. Theft of secondary metal.

1 (a) Offense defined.--A person commits the offense of theft
2 of secondary metal if the person unlawfully takes or attempts to
3 take possession of, carries away or exercises unlawful control
4 over any secondary metal with intent to deprive the rightful
5 owner thereof.

6 (b) Grading.--Except as set forth in subsection (c):

7 (1) An offense under this section constitutes a
8 misdemeanor of the third degree when the value of the
9 secondary metal unlawfully obtained is less than \$50.

10 (2) When the value of the secondary metal unlawfully
11 obtained is \$50 or more but less than \$200 the offense
12 constitutes a misdemeanor of the second degree.

13 (3) When the value of the secondary metal unlawfully
14 obtained is \$200 or more but less than \$1,000 the offense
15 constitutes a misdemeanor of the first degree.

16 (4) When the value of the secondary metal unlawfully
17 obtained is \$1,000 or more, the offense constitutes a felony
18 of the third degree.

19 (c) Third or subsequent offenses.--An offense under this
20 section constitutes a felony of the third degree when the
21 offense is a third or subsequent offense, regardless of the
22 value of the secondary metal. For purposes of this subsection, a
23 first and second offense includes a conviction, acceptance of
24 Accelerated Rehabilitative Disposition or other form of
25 preliminary disposition before the sentencing on the present
26 violation for an offense under this section or an offense under
27 section 3921 (relating to theft by unlawful taking or
28 disposition).

29 (d) Definition.--As used in this section, the term
30 "secondary metal" means wire, pipe or cable commonly used by

1 communications, gas and electrical utilities and railroads and
2 mass transit or commuter rail agencies, copper, aluminum or
3 other metal, or a combination of metals, that is valuable for
4 recycling or reuse as raw material.

5 SECTION 3. SECTION 6111.1(F) (3) AND (G) (1) AND (3) OF TITLE <--
6 18 ARE AMENDED TO READ:

7 § 6111.1. PENNSYLVANIA STATE POLICE.

8 * * *

9 (F) NOTIFICATION OF MENTAL HEALTH ADJUDICATION, TREATMENT,
10 COMMITMENT, DRUG USE OR ADDICTION.--

11 * * *

12 (3) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE
13 PENNSYLVANIA STATE POLICE [MAY] SHALL, WITHIN 72 HOURS OF
14 RECEIPT, DISCLOSE, ELECTRONICALLY OR OTHERWISE, TO THE UNITED
15 STATES ATTORNEY GENERAL OR A DESIGNEE, ANY RECORD RELEVANT TO
16 A DETERMINATION OF WHETHER A PERSON IS DISQUALIFIED FROM
17 POSSESSING OR RECEIVING A FIREARM UNDER 18 U.S.C. § 922 (G)
18 (3) OR (4) OR AN APPLICABLE STATE STATUTE[.], AND ANY RECORD
19 RELEVANT TO A DETERMINATION OF WHETHER A PERSON IS NOT
20 DISQUALIFIED OR IS NO LONGER DISQUALIFIED FROM POSSESSING OR
21 RECEIVING A FIREARM UNDER 18 U.S.C. § 922(G) (3) OR (4) OR AN
22 APPLICABLE STATE STATUTE.

23 (G) REVIEW BY COURT.--

24 (1) UPON RECEIPT OF A COPY OF THE ORDER OF A COURT OF
25 COMPETENT JURISDICTION WHICH VACATES A FINAL ORDER OR AN
26 INVOLUNTARY CERTIFICATION ISSUED BY A MENTAL HEALTH REVIEW
27 OFFICER, THE PENNSYLVANIA STATE POLICE SHALL, AFTER
28 DISCLOSING RELEVANT RECORDS UNDER SUBSECTION (F) (3), EXPUNGE
29 ALL RECORDS OF THE INVOLUNTARY TREATMENT RECEIVED UNDER
30 SUBSECTION (F).

1 * * *

2 (3) THE PENNSYLVANIA STATE POLICE, AFTER DISCLOSING
3 RELEVANT RECORDS UNDER SUBSECTION (F) (3), SHALL EXPUNGE ALL
4 RECORDS OF AN INVOLUNTARY COMMITMENT OF AN INDIVIDUAL WHO IS
5 DISCHARGED FROM A MENTAL HEALTH FACILITY BASED UPON THE
6 INITIAL REVIEW BY THE PHYSICIAN OCCURRING WITHIN TWO HOURS OF
7 ARRIVAL UNDER SECTION 302(B) OF THE MENTAL HEALTH PROCEDURES
8 ACT AND THE PHYSICIAN'S DETERMINATION THAT NO SEVERE MENTAL
9 DISABILITY EXISTED PURSUANT TO SECTION 302(B) OF THE MENTAL
10 HEALTH PROCEDURES ACT. THE PHYSICIAN SHALL PROVIDE SIGNED
11 CONFIRMATION OF THE DETERMINATION OF THE LACK OF SEVERE
12 MENTAL DISABILITY FOLLOWING THE INITIAL EXAMINATION UNDER
13 SECTION 302(B) OF THE MENTAL HEALTH PROCEDURES ACT TO THE
14 PENNSYLVANIA STATE POLICE.

15 * * *

16 SECTION 4. SECTION 6120(B) OF TITLE 18 IS AMENDED AND THE
17 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

18 § 6120. LIMITATION ON THE REGULATION OF FIREARMS AND
19 AMMUNITION.

20 * * *

21 (A.2) RELIEF.--A PERSON ADVERSELY AFFECTED BY AN ORDINANCE,
22 A RESOLUTION, REGULATION, RULE, PRACTICE OR ANY OTHER ACTION
23 PROMULGATED OR ENFORCED BY A COUNTY, MUNICIPALITY OR TOWNSHIP
24 PROHIBITED UNDER SUBSECTION (A) OR 53 PA.C.S. § 2962(G)
25 (RELATING TO LIMITATION ON MUNICIPAL POWERS) MAY SEEK
26 DECLARATORY OR INJUNCTIVE RELIEF AND ACTUAL DAMAGES IN AN
27 APPROPRIATE COURT.

28 (A.3) REASONABLE EXPENSES.--A COURT SHALL AWARD REASONABLE
29 EXPENSES TO A PERSON ADVERSELY AFFECTED IN AN ACTION UNDER
30 SUBSECTION (A.2) FOR ANY OF THE FOLLOWING:

1 (1) A FINAL DETERMINATION BY THE COURT IS GRANTED IN
2 FAVOR OF THE PERSON ADVERSELY AFFECTED.

3 (2) THE REGULATION IN QUESTION IS RESCINDED, REPEALED OR
4 OTHERWISE ABROGATED AFTER SUIT HAS BEEN FILED UNDER
5 SUBSECTION (A.2) BUT BEFORE THE FINAL DETERMINATION BY THE
6 COURT.

7 (B) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
8 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
9 SUBSECTION:

10 "DEALER." THE TERM SHALL INCLUDE ANY PERSON ENGAGED IN THE
11 BUSINESS OF SELLING AT WHOLESALE OR RETAIL A FIREARM OR
12 AMMUNITION.

13 "FIREARMS." THIS TERM SHALL HAVE THE MEANING GIVEN TO IT IN
14 SECTION 5515 (RELATING TO PROHIBITING OF PARAMILITARY TRAINING)
15 BUT SHALL NOT INCLUDE AIR RIFLES AS THAT TERM IS DEFINED IN
16 SECTION 6304 (RELATING TO SALE AND USE OF AIR RIFLES).

17 "PERSON ADVERSELY AFFECTED." ANY OF THE FOLLOWING:

18 (1) A RESIDENT OF THIS COMMONWEALTH WHO MAY LEGALLY
19 POSSESS A FIREARM UNDER FEDERAL AND STATE LAW.

20 (2) A PERSON WHO OTHERWISE HAS STANDING UNDER THE LAWS
21 OF THIS COMMONWEALTH TO BRING AN ACTION UNDER SUBSECTION
22 (A.2).

23 (3) A MEMBERSHIP ORGANIZATION, IN WHICH A MEMBER IS A
24 PERSON DESCRIBED UNDER PARAGRAPH (1) OR (2).

25 "POLITICAL SUBDIVISION." THE TERM SHALL INCLUDE ANY HOME
26 RULE CHARTER MUNICIPALITY, COUNTY, CITY, BOROUGH, INCORPORATED
27 TOWN, TOWNSHIP OR SCHOOL DISTRICT.

28 "REASONABLE EXPENSES." THE TERM INCLUDES, BUT IS NOT LIMITED
29 TO, ATTORNEY FEES, EXPERT WITNESS FEES, COURT COSTS AND
30 COMPENSATION FOR LOSS OF INCOME.

1 Section ~~2~~ ~~3~~ 5. This act shall take effect in 60 days.

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