

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 582 Session of 2001

INTRODUCED BY DIVEN, READSHAW, MAYERNIK, BELARDI, CALTAGIRONE,
CAPPELLI, CORRIGAN, COSTA, CRUZ, HALUSKA, KENNEY, LAUGHLIN,
MARKOSEK, MCGILL, PETRARCA, SAINATO, SOLOBAY, STABACK,
STEELMAN, STERN, TIGUE, TRELLO, WALKO, WANSACZ, C. WILLIAMS,
WOJNAROSKI, YOUNGBLOOD, PRESTON, THOMAS, HARHAI, BISHOP,
GRUCELA, FRANKEL, WATERS, BROWNE AND PALLONE,
FEBRUARY 8, 2001

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 27, 2002

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for criminal
3 mischief and, for institutional vandalism, FOR CRIMINAL <--
4 TRESPASS AND FOR RETAIL THEFT.

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

7 Section 1. Section 3304(a) of Title 18 of the Pennsylvania
8 Consolidated Statutes is amended and the section is amended by
9 adding a subsection to read:

10 § 3304. Criminal mischief.

11 (a) Offense defined.--A person is guilty of criminal
12 mischief if he:

13 (1) damages tangible property of another intentionally,
14 recklessly, or by negligence in the employment of fire,
15 explosives, or other dangerous means listed in section
16 3302(a) of this title (relating to causing or risking

1 catastrophe);

2 (2) intentionally or recklessly tampers with tangible
3 property of another so as to endanger person or property;

4 (3) intentionally or recklessly causes another to suffer
5 pecuniary loss by deception or threat; [or]

6 (4) intentionally defaces or otherwise damages tangible
7 public property or tangible property of another with [an]
8 graffiti by use of any aerosol spray-paint can, broad-tipped
9 indelible marker or similar marking device; or

10 (5) intentionally damages real or personal property of
11 another.

12 * * *

13 (c) Definition.--As used in this section, the term
14 "graffiti" means an unauthorized inscription, word, figure, mark
15 or design which is written, marked, etched, scratched, drawn or
16 painted.

17 Section 2. Section 3307(a) of Title 18 is amended to read:
18 § 3307. Institutional vandalism.

19 (a) Offenses defined.--A person commits the offense of
20 institutional vandalism if he knowingly desecrates, as defined
21 in section 5509 (relating to desecration of venerated objects),
22 vandalizes, defaces or otherwise damages:

23 (1) any church, synagogue or other facility or place
24 used for religious worship or other religious purposes;

25 (2) any cemetery, mortuary or other facility used for
26 the purpose of burial or memorializing the dead;

27 (3) any school, educational facility, community center,
28 municipal building, courthouse facility, State or local
29 government building or vehicle or juvenile detention center;

30 (4) the grounds adjacent to and owned or occupied by any

20010H0582B4169

- 2 -

1 facility set forth in paragraph (1), (2) or (3); or
2 (5) any personal property located in any facility set
3 forth in this subsection.

4 Section 3. This act shall take effect immediately.

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5 SECTION 3. SECTION 3503(B) OF TITLE 18 IS AMENDED AND THE
6 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

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7 § 3503. CRIMINAL TRESPASS.

8 * * *

9 (B) DEFIANT TRESPASSER.--

10 (1) A PERSON COMMITS AN OFFENSE IF, KNOWING THAT HE IS
11 NOT LICENSED OR PRIVILEGED TO DO SO, HE ENTERS OR REMAINS IN
12 ANY PLACE AS TO WHICH NOTICE AGAINST TRESPASS IS GIVEN BY:

13 (I) ACTUAL COMMUNICATION TO THE ACTOR; [OR]

14 (II) POSTING IN A MANNER PRESCRIBED BY LAW OR
15 REASONABLY LIKELY TO COME TO THE ATTENTION OF INTRUDERS;
16 [OR]

17 (III) FENCING OR OTHER ENCLOSURE MANIFESTLY DESIGNED
18 TO EXCLUDE INTRUDERS[.];

19 (IV) NOTICES POSTED IN A MANNER PRESCRIBED BY LAW OR
20 REASONABLY LIKELY TO COME TO THE PERSON'S ATTENTION AT
21 EACH ENTRANCE OF SCHOOL GROUNDS THAT VISITORS ARE
22 PROHIBITED WITHOUT AUTHORIZATION FROM A DESIGNATED
23 SCHOOL, CENTER OR PROGRAM OFFICIAL; OR

24 (V) AN ACTUAL COMMUNICATION TO THE ACTOR TO LEAVE
25 SCHOOL GROUNDS AS COMMUNICATED BY A SCHOOL, CENTER OR
26 PROGRAM OFFICIAL, EMPLOYEE OR AGENT OR A LAW ENFORCEMENT
27 OFFICER.

28 (2) [AN] EXCEPT AS PROVIDED IN PARAGRAPH (1)(V), AN
29 OFFENSE UNDER THIS SUBSECTION CONSTITUTES A MISDEMEANOR OF
30 THE THIRD DEGREE IF THE OFFENDER DEFIES AN ORDER TO LEAVE

20010H0582B4169

- 3 -

1 PERSONALLY COMMUNICATED TO HIM BY THE OWNER OF THE PREMISES
2 OR OTHER AUTHORIZED PERSON. AN OFFENSE UNDER PARAGRAPH (1)(V)
3 CONSTITUTES A MISDEMEANOR OF THE FIRST DEGREE. OTHERWISE IT
4 IS A SUMMARY OFFENSE.

5 * * *

6 (D) DEFINITION.--AS USED IN THIS SECTION, THE TERM "SCHOOL
7 GROUNDS" MEANS ANY BUILDING OF OR GROUNDS OF ANY ELEMENTARY OR
8 SECONDARY PUBLICLY FUNDED EDUCATIONAL INSTITUTION, ANY
9 ELEMENTARY OR SECONDARY PRIVATE SCHOOL LICENSED BY THE
10 DEPARTMENT OF EDUCATION, ANY ELEMENTARY OR SECONDARY PAROCHIAL
11 SCHOOL, ANY CERTIFIED DAY-CARE CENTER OR ANY LICENSED PRESCHOOL
12 PROGRAM.

13 SECTION 4. SECTION 3929(B) OF TITLE 18 IS AMENDED TO READ:
14 § 3929. RETAIL THEFT.

15 * * *

16 (B) GRADING.--

17 (1) RETAIL THEFT CONSTITUTES A:

18 (I) SUMMARY OFFENSE WHEN THE OFFENSE IS A FIRST
19 OFFENSE AND THE VALUE OF THE MERCHANDISE IS LESS THAN
20 \$150.

21 (II) MISDEMEANOR OF THE SECOND DEGREE WHEN THE
22 OFFENSE IS A SECOND OFFENSE AND THE VALUE OF THE
23 MERCHANDISE IS LESS THAN \$150.

24 (III) MISDEMEANOR OF THE FIRST DEGREE WHEN THE
25 OFFENSE IS A FIRST OR SECOND OFFENSE AND THE VALUE OF THE
26 MERCHANDISE IS \$150 OR MORE.

27 (IV) FELONY OF THE THIRD DEGREE WHEN THE OFFENSE IS
28 A THIRD OR SUBSEQUENT OFFENSE, REGARDLESS OF THE VALUE OF
29 THE MERCHANDISE.

30 (V) FELONY OF THE THIRD DEGREE WHEN THE AMOUNT

20010H0582B4169

- 4 -

1 INVOLVED EXCEEDS \$2,000 OR IF THE MERCHANDISE INVOLVED IS
2 A FIREARM OR A MOTOR VEHICLE.

3 (1.1) ANY PERSON WHO IS CONVICTED UNDER SUBSECTION (A)
4 OF RETAIL THEFT OF MOTOR FUEL MAY, IN ADDITION TO ANY OTHER
5 PENALTY IMPOSED, BE SENTENCED AS FOLLOWS:

6 (I) FOR A FIRST OFFENSE, TO PAY A FINE OF NOT LESS
7 THAN \$100 NOR MORE THAN \$250.

8 (II) FOR A SECOND OFFENSE, TO PAY A FINE OF NOT
9 LESS THAN \$250 NOR MORE THAN \$500.

10 (III) FOR A THIRD OR SUBSEQUENT OFFENSE, TO PAY A
11 FINE OF NOT LESS THAN \$500, OR THE COURT MAY ORDER THE
12 OPERATING PRIVILEGE OF THE PERSON SUSPENDED FOR 30 DAYS.
13 A COPY OF THE ORDER SHALL BE TRANSMITTED TO THE
14 DEPARTMENT OF TRANSPORTATION.

15 (2) AMOUNTS INVOLVED IN RETAIL THEFTS COMMITTED PURSUANT
16 TO ONE SCHEME OR COURSE OF CONDUCT, WHETHER FROM THE SAME
17 STORE OR RETAIL MERCANTILE ESTABLISHMENT OR SEVERAL STORES OR
18 RETAIL MERCANTILE ESTABLISHMENTS, MAY BE AGGREGATED IN
19 DETERMINING THE GRADE OF THE OFFENSE.

20 * * *

21 SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

22 (1) THE AMENDMENT OF 18 PA.C.S. § 3929(B) SHALL TAKE
23 EFFECT IN 60 DAYS.

24 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
25 IMMEDIATELY.

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- 5 -