

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 731 Session of 2013

INTRODUCED BY RAFFERTY, MENSCH, VULAKOVICH, YUDICHAK, WAUGH, STACK, SOLOBAY, ALLOWAY, YAW AND BOSCOLA, MARCH 26, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, NOVEMBER 12, 2013

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing FOR BURGLARY, FOR <--
3 ROBBERY, FOR GRADING OF THEFT OFFENSES AND for the offense of
4 retail theft.

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

7 Section 1. Section 3929(f) of Title 18 of the Pennsylvania <--
8 Consolidated Statutes is amended by adding a definition to read:

9 SECTION 1. SECTIONS 3502(C) (2) AND 3701(B), 3701(B) AND 3903 <--
10 OF TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE <--

11 AMENDED TO READ:

12 § 3502. BURGLARY.

13 * * *

14 (C) GRADING.--

15 * * *

16 (2) [AN] AS FOLLOWS:

17 (I) EXCEPT UNDER SUBPARAGRAPH (II), AN OFFENSE UNDER
18 SUBSECTION (A) (4) IS A FELONY OF THE SECOND DEGREE.

1 (II) IF THE ACTOR'S INTENT UPON ENTERING THE
2 BUILDING, STRUCTURE OR PORTION UNDER SUBPARAGRAPH (I) IS
3 TO COMMIT THEFT OF A CONTROLLED SUBSTANCE OR DESIGNER
4 DRUG AS THOSE TERMS ARE DEFINED IN SECTION 2 OF THE ACT
5 OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
6 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT,
7 BURGLARY IS A FELONY OF THE FIRST DEGREE.

8 * * *

9 § 3701. ROBBERY.

10 * * *

11 (B) GRADING.--[ROBBERY]

12 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), ROBBERY
13 UNDER SUBSECTION (A) (1) (IV) AND (VI) IS A FELONY OF THE
14 SECOND DEGREE; ROBBERY UNDER SUBSECTION (A) (1) (V) IS A FELONY
15 OF THE THIRD DEGREE; OTHERWISE, IT IS A FELONY OF THE FIRST
16 DEGREE.

17 (2) IF THE OBJECT OF A ROBBERY UNDER PARAGRAPH (1) IS A
18 CONTROLLED SUBSTANCE OR DESIGNER DRUG AS THOSE TERMS ARE
19 DEFINED IN SECTION 2 OF THE ACT OF APRIL 14, 1972 (P.L.233,
20 NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
21 COSMETIC ACT, ROBBERY IS A FELONY OF THE FIRST DEGREE.

22 ~~SECTION 2. SECTION 3903(A) OF TITLE 18 IS AMENDED BY ADDING <--~~
23 ~~A PARAGRAPH TO READ:~~

24 ~~§ 3903. GRADING OF THEFT OFFENSES.~~

25 ~~(A) FELONY OF THE SECOND DEGREE. THEFT CONSTITUTES A FELONY~~
26 ~~OF THE SECOND DEGREE IF:~~

27 * * *

28 ~~(5) THE PROPERTY STOLEN IS A CONTROLLED SUBSTANCE OR~~
29 ~~DESIGNER DRUG AS THOSE TERMS ARE DEFINED IN SECTION 2 OF THE~~
30 ~~ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE~~

1 ~~CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.~~

2 * * *

3 § 3903. GRADING OF THEFT OFFENSES. <--

4 (A) FELONY OF THE SECOND DEGREE.--THEFT CONSTITUTES A FELONY
5 OF THE SECOND DEGREE IF:

6 (1) THE OFFENSE IS COMMITTED DURING A MANMADE DISASTER,
7 A NATURAL DISASTER OR A WAR-CAUSED DISASTER AND CONSTITUTES A
8 VIOLATION OF SECTION 3921 (RELATING TO THEFT BY UNLAWFUL
9 TAKING OR DISPOSITION), 3925 (RELATING TO RECEIVING STOLEN
10 PROPERTY), 3928 (RELATING TO UNAUTHORIZED USE OF AUTOMOBILES
11 AND OTHER VEHICLES) OR 3929 (RELATING TO RETAIL THEFT).

12 (2) THE PROPERTY STOLEN IS A FIREARM.

13 (3) IN THE CASE OF THEFT BY RECEIVING STOLEN PROPERTY,
14 THE PROPERTY RECEIVED, RETAINED OR DISPOSED OF IS A FIREARM.

15 (4) THE PROPERTY STOLEN IS ANY AMOUNT OF ANHYDROUS
16 AMMONIA.

17 (5) THE PROPERTY STOLEN IS A CONTROLLED SUBSTANCE OR
18 DESIGNER DRUG AS THOSE TERMS ARE DEFINED IN SECTION 2 OF THE
19 ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
20 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

21 (6) THE AMOUNT INVOLVED IS \$100,000 OR MORE BUT LESS
22 THAN \$500,000.

23 (A.1) FELONY OF THE THIRD DEGREE.--EXCEPT AS PROVIDED IN
24 SUBSECTION (A) OR (A.2), THEFT CONSTITUTES A FELONY OF THE THIRD
25 DEGREE IF THE AMOUNT INVOLVED EXCEEDS \$2,000, OR IF THE PROPERTY
26 STOLEN IS AN AUTOMOBILE, AIRPLANE, MOTORCYCLE, MOTORBOAT OR
27 OTHER MOTOR-PROPELLED VEHICLE, OR IN THE CASE OF THEFT BY
28 RECEIVING STOLEN PROPERTY, IF THE RECEIVER IS IN THE BUSINESS OF
29 BUYING OR SELLING STOLEN PROPERTY.

30 (A.2) FELONY OF THE FIRST DEGREE.--[THEFT] EXCEPT AS

1 PROVIDED IN SUBSECTIONS (A) AND (A.1), THEFT CONSTITUTES A
2 FELONY OF THE FIRST DEGREE IF[,]:

3 (1) IN THE CASE OF THEFT BY RECEIVING STOLEN PROPERTY,
4 THE PROPERTY RECEIVED, RETAINED OR DISPOSED OF IS A FIREARM
5 AND THE RECEIVER IS IN THE BUSINESS OF BUYING OR SELLING
6 STOLEN PROPERTY[.]; OR

7 (2) THE AMOUNT INVOLVED IS \$500,000 OR MORE.

8 (B) OTHER GRADES.--THEFT NOT WITHIN SUBSECTION (A), (A.1) OR
9 (A.2), CONSTITUTES A MISDEMEANOR OF THE FIRST DEGREE, EXCEPT
10 THAT IF THE PROPERTY WAS NOT TAKEN FROM THE PERSON OR BY THREAT,
11 OR IN BREACH OF FIDUCIARY OBLIGATION, AND:

12 (1) THE AMOUNT INVOLVED WAS \$50 OR MORE BUT LESS THAN
13 \$200 THE OFFENSE CONSTITUTES A MISDEMEANOR OF THE SECOND
14 DEGREE; OR

15 (2) THE AMOUNT INVOLVED WAS LESS THAN \$50 THE OFFENSE
16 CONSTITUTES A MISDEMEANOR OF THE THIRD DEGREE.

17 (C) VALUATION.--THE AMOUNT INVOLVED IN A THEFT SHALL BE
18 ASCERTAINED AS FOLLOWS:

19 (1) EXCEPT AS OTHERWISE SPECIFIED IN THIS SECTION, VALUE
20 MEANS THE MARKET VALUE OF THE PROPERTY AT THE TIME AND PLACE
21 OF THE CRIME, OR IF SUCH CANNOT BE SATISFACTORILY
22 ASCERTAINED, THE COST OF REPLACEMENT OF THE PROPERTY WITHIN A
23 REASONABLE TIME AFTER THE CRIME.

24 (2) WHETHER OR NOT THEY HAVE BEEN ISSUED OR DELIVERED,
25 CERTAIN WRITTEN INSTRUMENTS, NOT INCLUDING THOSE HAVING A
26 READILY ASCERTAINABLE MARKET VALUE SUCH AS SOME PUBLIC AND
27 CORPORATE BONDS AND SECURITIES, SHALL BE EVALUATED AS
28 FOLLOWS:

29 (I) THE VALUE OF AN INSTRUMENT CONSTITUTING AN
30 EVIDENCE OF DEBT, SUCH AS A CHECK, DRAFT OR PROMISSORY

1 NOTE, SHALL BE DEEMED THE AMOUNT DUE OR COLLECTIBLE
2 THEREON OR THEREBY, SUCH FIGURE ORDINARILY BEING THE FACE
3 AMOUNT OF THE INDEBTEDNESS LESS ANY PORTION THEREOF WHICH
4 HAS BEEN SATISFIED.

5 (II) THE VALUE OF ANY OTHER INSTRUMENT WHICH
6 CREATES, RELEASES, DISCHARGES OR OTHERWISE AFFECTS ANY
7 VALUABLE LEGAL RIGHT, PRIVILEGE OR OBLIGATION SHALL BE
8 DEEMED THE GREATEST AMOUNT OF ECONOMIC LOSS WHICH THE
9 OWNER OF THE INSTRUMENT MIGHT REASONABLY SUFFER BY VIRTUE
10 OF THE LOSS OF THE INSTRUMENT.

11 (3) WHEN THE VALUE OF PROPERTY CANNOT BE SATISFACTORILY
12 ASCERTAINED PURSUANT TO THE STANDARDS SET FORTH IN PARAGRAPHS
13 (1) AND (2) OF THIS SUBSECTION ITS VALUE SHALL BE DEEMED TO
14 BE AN AMOUNT LESS THAN \$50. AMOUNTS INVOLVED IN THEFTS
15 COMMITTED PURSUANT TO ONE SCHEME OR COURSE OF CONDUCT,
16 WHETHER FROM THE SAME PERSON OR SEVERAL PERSONS, MAY BE
17 AGGREGATED IN DETERMINING THE GRADE OF THE OFFENSE.

18 (C.1) SENTENCING ENHANCEMENT FOR THEFT OF PUBLIC FUNDS OR
19 THEFT IN BREACH OF A FIDUCIARY DUTY.--NOTWITHSTANDING SECTION
20 1103 (RELATING TO SENTENCE OF IMPRISONMENT FOR FELONY), THE
21 MAXIMUM TERM OF IMPRISONMENT FOR AN OFFENSE GRADED UNDER THIS
22 SECTION MAY BE INCREASED BY A TERM OF IMPRISONMENT OF UP TO FIVE
23 YEARS WHEN THE THEFT IS FROM A POLITICAL SUBDIVISION, LOCAL
24 AUTHORITY OR PUBLIC OR PRIVATE CHARITABLE ORGANIZATION OR WHEN
25 THE THEFT CONSTITUTES A BREACH OF FIDUCIARY DUTY.

26 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
27 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
28 SUBSECTION:

29 "CHARITABLE ORGANIZATION." AS DEFINED UNDER SECTION 3 OF THE
30 ACT OF DECEMBER 19, 1990 (P.L.1200, NO.202), KNOWN AS THE

1 SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES ACT.

2 "MANMADE DISASTER." ANY INDUSTRIAL, NUCLEAR OR
3 TRANSPORTATION ACCIDENT, EXPLOSION, CONFLAGRATION, POWER
4 FAILURE, NATURAL RESOURCE SHORTAGE OR OTHER CONDITION, EXCEPT
5 ENEMY ACTION, RESULTING FROM MANMADE CAUSES, SUCH AS OIL SPILLS
6 AND OTHER INJURIOUS ENVIRONMENTAL CONTAMINATION, WHICH THREATENS
7 OR CAUSES SUBSTANTIAL DAMAGE TO PROPERTY, HUMAN SUFFERING,
8 HARDSHIP OR LOSS OF LIFE.

9 "NATURAL DISASTER." ANY HURRICANE, TORNADO, STORM, FLOOD,
10 HIGH WATER, WIND-DRIVEN WATER, TIDAL WAVE, EARTHQUAKE,
11 LANDSLIDE, MUDSLIDE, SNOWSTORM, DROUGHT, FIRE, EXPLOSION OR
12 OTHER CATASTROPHE WHICH RESULTS IN SUBSTANTIAL DAMAGE TO
13 PROPERTY, HARDSHIP, SUFFERING OR POSSIBLE LOSS OF LIFE.

14 "WAR-CAUSED DISASTER." ANY CONDITION FOLLOWING AN ATTACK
15 UPON THE UNITED STATES RESULTING IN SUBSTANTIAL DAMAGE TO
16 PROPERTY OR INJURY TO PERSONS IN THE UNITED STATES CAUSED BY USE
17 OF BOMBS, MISSILES, SHELLFIRE, NUCLEAR, RADIOLOGICAL, CHEMICAL
18 OR BIOLOGICAL MEANS, OR OTHER WEAPONS OR OVERT PARAMILITARY
19 ACTIONS, OR OTHER CONDITIONS SUCH AS SABOTAGE.

20 SECTION 3 2. SECTION 3929(B)(1)(V) OF TITLE 18 IS AMENDED <--
21 AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

22 § 3929. Retail theft.

23 * * *

24 (B) GRADING.-- <--

25 (1) RETAIL THEFT CONSTITUTES A:

26 * * *

27 (V) FELONY OF THE THIRD DEGREE WHEN THE AMOUNT
28 INVOLVED EXCEEDS [\$2,000] \$1,000 OR IF THE MERCHANDISE
29 INVOLVED IS A FIREARM OR A MOTOR VEHICLE.

30 * * *

1 (B.1) CALCULATION OF PRIOR OFFENSES.--FOR THE PURPOSES OF
2 THIS SECTION, IN DETERMINING WHETHER AN OFFENSE IS A FIRST,
3 SECOND, THIRD OR SUBSEQUENT OFFENSE, THE COURT SHALL INCLUDE A
4 CONVICTION, ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION
5 OR OTHER FORM OF PRELIMINARY DISPOSITION, OCCURRING BEFORE THE
6 SENTENCING ON THE PRESENT VIOLATION, FOR AN OFFENSE UNDER THIS
7 SECTION, AN OFFENSE SUBSTANTIALLY SIMILAR TO AN OFFENSE UNDER
8 THIS SECTION OR UNDER THE PRIOR LAWS OF THIS COMMONWEALTH OR A
9 SIMILAR OFFENSE UNDER THE STATUTES OF ANY OTHER STATE OR OF THE
10 UNITED STATES.

11 * * *

12 ~~(f) Definitions.~~

13 * * *

14 ~~"First offense." Any conviction, acceptance of Accelerated~~
15 ~~Rehabilitative Disposition or other form of preliminary~~
16 ~~disposition before the sentencing on the present violation for~~
17 ~~an offense under this section or an offense substantially~~
18 ~~similar to an offense under this section.~~

19 * * *

20 ~~SECTION 4. THE AMENDMENT OR ADDITION OF 18 PA.C.S. §§~~
21 ~~3502(C)(2), 3701(B) AND 3903(A)(5) SHALL APPLY TO OFFENSES~~
22 ~~COMMITTED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.~~

23 SECTION 4 3. THE AMENDMENT OR ADDITION OF 18 PA.C.S. §§ <--
24 3502(C)(2), 3701(B), ~~3903(A)(5)~~ 3903 AND 3929(B)(1)(V) SHALL <--
25 APPLY TO OFFENSES COMMITTED ON OR AFTER THE EFFECTIVE DATE OF
26 THIS SECTION.

27 Section ~~2~~ 5 4. The amendment of ~~18 Pa.C.S. § 3929(f)~~ 18 <--
28 PA.C.S. § §§ 3903 AND 3929(B.1) shall apply to sentences imposed <--
29 on or after the effective date of this section.

30 Section ~~3~~ 6 5. This act shall take effect in 60 days. <--