

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1279 Session of  
1995

INTRODUCED BY ITKIN, L. I. COHEN, FAJT, MANDERINO, HORSEY,  
BELARDI, JOSEPHS, KUKOVICH, DRUCE, DENT, BUXTON, GIGLIOTTI,  
RIEGER, DALEY, CAPPABIANCA, TRELLO, COLAFELLA, ROBINSON,  
MELIO, STURLA, STABACK, YOUNGBLOOD, RAMOS, TANGRETTI,  
VAN HORNE, MIHALICH, TRAVAGLIO, BELFANTI, ROONEY, LEVDANSKY,  
WALKO AND STEELMAN, MARCH 22, 1995

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 22, 1995

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for the offense of  
3 ethnic intimidation.

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

6 Section 1. Sections 2710 and 3503 of Title 18 of the  
7 Pennsylvania Consolidated Statutes are amended to read:

8 § 2710. Ethnic intimidation.

9 (a) Offense defined.--A person commits the offense of ethnic  
10 intimidation if, with malicious intention toward the race,  
11 color, religion or national origin of another individual or  
12 group of individuals, he:

13 (1) commits an act, with intent to harass, annoy or  
14 alarm another individual or group of individuals, which  
15 alarms or seriously annoys such other individuals or one or  
16 more members of such a group of individuals and which serves

1     no legitimate purpose or which constitutes constitutionally  
2     proscribable speech or conduct; or

3         (2) commits an offense under any other provision of this  
4     article or under Chapter 33 (relating to arson, criminal  
5     mischief and other property destruction) exclusive of section  
6     3307 (relating to institutional vandalism) or under section  
7     3503 (relating to criminal trespass) or under section 5504  
8     (relating to harassment by communication or address) with  
9     respect to such individual or his or her property or with  
10    respect to one or more members of such group or to their  
11    property.

12    (b) Grading.--An offense under subsection (a)(1) shall be  
13    classified as a misdemeanor of the third degree. An offense  
14    under [this section] subsection (a)(2) shall be classified as a  
15    misdemeanor of the third degree if the other offense is  
16    classified as a summary offense. Otherwise, an offense under  
17    [this section] subsection (a)(2) shall be classified one degree  
18    higher in the classification specified in section 106 (relating  
19    to classes of offenses) than the classification of the other  
20    offense.

21    (c) Definition.--[As used in this section "malicious  
22    intention"] Except for an offense under section 2705 (relating  
23    to recklessly endangering another person), "malicious  
24    intention," as used in this section, means the intention to  
25    commit any act, the commission of which is a necessary element  
26    of any offense referred to in subsection (a) motivated by hatred  
27    toward the race, color, religion or national origin of another  
28    individual or group of individuals. For the purpose of  
29    prosecuting an offense under subsection (a)(2) based on section  
30    2705, "malicious intention," as used in this section, includes

1 the reckless commission of any act, the commission of which is a  
2 necessary element of the offense which is motivated by hatred  
3 toward the race, color, religion or national origin of another  
4 individual or group of individuals.

5 § 3503. Criminal trespass.

6 (a) Buildings and occupied structures.--

7 (1) A person commits an offense if, knowing that he is  
8 not licensed or privileged to do so, he:

9 (i) enters, gains entry by subterfuge or  
10 surreptitiously remains in any building or occupied  
11 structure or separately secured or occupied portion  
12 thereof; [or]

13 (ii) breaks into any building or occupied structure  
14 or separately secured or occupied portion thereof[.]; or

15 (iii) enters onto the property of another for the  
16 purpose of alarming, seriously annoying, threatening,  
17 harassing or terrorizing the owner or occupant thereof.

18 (2) An offense under paragraph (1)(i) is a felony of the  
19 third degree, [and] an offense under paragraph (1)(ii) is a  
20 felony of the second degree and an offense under paragraph  
21 (1)(iii) is a misdemeanor of the second degree.

22 (3) As used in this subsection:

23 "Breaks into." To gain entry by force, breaking,  
24 intimidation, unauthorized opening of locks, or through  
25 an opening not designed for human access.

26 (b) Defiant trespasser.--

27 (1) A person commits an offense if, knowing that he is  
28 not licensed or privileged to do so, he enters or remains in  
29 any place as to which notice against trespass is given by:

30 (i) actual communication to the actor; or

1           (ii) posting in a manner prescribed by law or  
2           reasonably likely to come to the attention of intruders;  
3           or

4           (iii) fencing or other enclosure manifestly designed  
5           to exclude intruders.

6           (2) An offense under this subsection constitutes a  
7           misdemeanor of the third degree if the offender defies an  
8           order to leave personally communicated to him by the owner of  
9           the premises or other authorized person. Otherwise it is a  
10          summary offense.

11          (c) Defenses.--It is a defense to prosecution under this  
12          section that:

13           (1) a building or occupied structure involved in an  
14           offense under subsection (a) of this section was abandoned;

15           (2) the premises were at the time open to members of the  
16           public and the actor complied with all lawful conditions  
17           imposed on access to or remaining in the premises; or

18           (3) the actor reasonably believed that the owner of the  
19           premises, or other person empowered to license access  
20           thereto, would have licensed him to enter or remain.

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