

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 227 Session of
2001

INTRODUCED BY HERMAN, BELARDI, CLARK, COLAFELLA, DONATUCCI,
GEIST, HENNESSEY, HERSHEY, HORSEY, JOSEPHS, MICHLOVIC,
S. MILLER, PHILLIPS, PISTELLA, PRESTON, READSHAW, SHANER,
SOLOBAY, STABACK, SURRA, E. Z. TAYLOR, J. TAYLOR, TRELLO,
WANSACZ AND WOJNAROSKI, JANUARY 25, 2001

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 25, 2001

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for the definition
3 of "offensive weapons," for use or possession of electric or
4 electronic incapacitation devices, for penalties, for
5 aggravated assault and for use of tear or noxious gas in
6 labor disputes; imposing a penalty; and making an editorial
7 change.

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

10 Section 1. Section 908(c) of Title 18 of the Pennsylvania
11 Consolidated Statutes is amended to read:

12 § 908. Prohibited offensive weapons.

13 * * *

14 (c) [Definition] Definitions.--As used in this section, the
15 following words and phrases shall have the meanings given to
16 them in this subsection:

17 "Firearm." Any weapon which is designed to or may readily be
18 converted to expel any projectile by the action of an explosive
19 or the frame or receiver of any such weapon.

1 "Offensive weapons." Any bomb, grenade, machine gun, sawed-
2 off shotgun with a barrel less than 18 inches, firearm specially
3 made or specially adapted for concealment or silent discharge,
4 any blackjack, sandbag, metal knuckles, dagger, knife, razor or
5 cutting instrument, the blade of which is exposed in an
6 automatic way by switch, push-button, spring mechanism, or
7 otherwise, any stun gun, stun baton, taser or other electronic
8 or electronic weapon, or other implement for the infliction of
9 serious bodily injury which serves no common lawful purpose.

10 * * *

11 Section 2. Title 18 is amended by adding a section to read:

12 § 908.1. Use or possession of electric or electronic
13 incapacitation device.

14 (a) Offense defined.--A person commits an offense if he uses
15 an electric or electronic incapacitation device or weapon on
16 another person.

17 (b) Authorized possession.--A person may possess and use an
18 electric or electronic incapacitation device in the exercise of
19 reasonable force in defense of the person or the person's
20 property if the electric or electronic incapacitation device is
21 labeled with or accompanied by clearly written instructions as
22 to its use and the damages involved in its use.

23 (c) Prohibited possession.--

24 (1) No person under 18 years of age may possess or use
25 an electric or electronic incapacitation device.

26 (2) No person prohibited from possessing a firearm
27 pursuant to section 6105 (relating to persons not to possess,
28 use, manufacture, control, sell or transfer firearms) may
29 possess or use an electric or electronic incapacitation
30 device.

1 (d) Grading.--An offense under subsection (a) shall
2 constitute a felony of the second degree if the actor acted with
3 the intent to commit a felony. Otherwise any offense under this
4 section is graded as a misdemeanor of the first degree.

5 (e) Exceptions.--Nothing in this section shall prohibit the
6 possession or use by, or the sale or furnishing of any electric
7 or electronic incapacitation device to, a law enforcement
8 agency, peace officer, the National Guard or reserves or a
9 member of the National Guard or reserves for use in their
10 official duties.

11 (f) Definition.--As used in this section, the term "electric
12 or electronic incapacitation device" means a portable device
13 which is designed or intended by the manufacturer to be used,
14 offensively or defensively, to temporarily immobilize or
15 incapacitate persons by means of electric pulse or current,
16 including devices operating by means of carbon dioxide
17 propellant. The term does not include cattle prods, electric
18 fences or other electric devices when used in agricultural,
19 animal husbandry or food production activities.

20 Section 3. Sections 2702 and 2708 of Title 18 are amended to
21 read:

22 § 2702. Aggravated assault.

23 (a) Offense defined.--A person is guilty of aggravated
24 assault if he:

25 (1) attempts to cause serious bodily injury to another,
26 or causes such injury intentionally, knowingly or recklessly
27 under circumstances manifesting extreme indifference to the
28 value of human life;

29 (2) attempts to cause or intentionally, knowingly or
30 recklessly causes serious bodily injury to any of the

1 officers, agents, employees or other persons enumerated in
2 subsection (c) or to an employee of an agency, company or
3 other entity engaged in public transportation, while in the
4 performance of duty;

5 (3) attempts to cause or intentionally or knowingly
6 causes bodily injury to any of the officers, agents,
7 employees or other persons enumerated in subsection (c), in
8 the performance of duty;

9 (4) attempts to cause or intentionally or knowingly
10 causes bodily injury to another with a deadly weapon;

11 (5) attempts to cause or intentionally or knowingly
12 causes bodily injury to a teaching staff member, school board
13 member or other employee, including a student employee, of
14 any elementary or secondary publicly-funded educational
15 institution, any elementary or secondary private school
16 licensed by the Department of Education or any elementary or
17 secondary parochial school while acting in the scope of his
18 or her employment or because of his or her employment
19 relationship to the school; [or]

20 (6) attempts by physical menace to put any of the
21 officers, agents, employees or other persons enumerated in
22 subsection (c), while in the performance of duty, in fear of
23 imminent serious bodily injury[.]; or

24 (7) uses tear or noxious gas as defined in section
25 2708(b) (relating to use of tear or noxious gas in labor
26 disputes) or uses an electric or electronic incapacitation
27 device against any officer, employee or other person
28 enumerated in subsection (c) while acting in the scope of his
29 employment.

30 (b) Grading.--Aggravated assault under subsection (a)(1) and

1 (2) is a felony of the first degree. Aggravated assault under
2 subsection (a)(3), (4), (5) [and], (6) and (7) is a felony of
3 the second degree.

4 (c) Officers, employees, etc., enumerated.--The officers,
5 agents, employees and other persons referred to in subsection
6 (a) shall be as follows:

7 (1) Police officer.

8 (2) Firefighter.

9 (3) County adult probation or parole officer.

10 (4) County juvenile probation or parole officer.

11 (5) An agent of the Pennsylvania Board of Probation and
12 Parole.

13 (6) Sheriff.

14 (7) Deputy sheriff.

15 (8) Liquor control enforcement agent.

16 (9) Officer or employee of a correctional institution,
17 county jail or prison, juvenile detention center or any other
18 facility to which the person has been ordered by the court
19 pursuant to a petition alleging delinquency under 42 Pa.C.S.
20 Ch. 63 (relating to juvenile matters).

21 (10) Judge of any court in the unified judicial system.

22 (11) The Attorney General.

23 (12) A deputy attorney general.

24 (13) A district attorney.

25 (14) An assistant district attorney.

26 (15) A public defender.

27 (16) An assistant public defender.

28 (17) A Federal law enforcement official.

29 (18) A State law enforcement official.

30 (19) A local law enforcement official.

(20) Any person employed to assist or who assists any Federal, State or local law enforcement official.

(21) Emergency medical services personnel.

(22) Parking enforcement officer.

(23) A district justice.

(24) A constable.

(25) A deputy constable.

(26) A psychiatric aide.

(27) A teaching staff member, a school board member or other employee, including a student employee, of any elementary or secondary publicly funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school while acting in the scope of his or her employment or because of his or her employment relationship to the school.

(28) Governor.

(29) Lieutenant Governor.

(30) Auditor General.

(31) State Treasurer.

(32) Member of the General Assembly.

(d) [Definition.--As used in this section, the term "emergency] Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Electric or electronic incapacitation device." A portable device which is designed or intended by the manufacturer to be used to temporarily immobilize or incapacitate persons by means of electric pulse or current, including devices operated by means of carbon dioxide propellant.

1 "Emergency medical services [personnel]" personnel." The
2 term includes, but is not limited to, doctors, residents,
3 interns, registered nurses, licensed practical nurses, nurse
4 aides, ambulance attendants and operators, paramedics, emergency
5 medical technicians and members of a hospital security force
6 while working within the scope of their employment.

7 § 2708. Use of tear or noxious gas in labor disputes.

8 (a) Offense defined.--A person other than a duly constituted
9 officer of the law is guilty of a misdemeanor of the first
10 degree if he uses or directs the use of tear or noxious gas
11 against any person involved in a labor dispute.

12 (b) Definition.--As used in this section, the term "tear or
13 noxious gas" means any liquid or gaseous substance that, when
14 dispersed in the atmosphere, blinds the eyes with tears or
15 irritates or injures other organs and tissues of the human body
16 or causes nausea, including, but not limited to, red pepper
17 spray.

18 Section 4. This act shall take effect in 60 days.