
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, WOJNAROSKI AND SAYLOR, JANUARY 25, 2001

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JANUARY 29, 2002

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

1 or the frame or receiver of any such weapon.

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

11 * * *

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

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

15 (a) Offense defined.--Except as set forth in subsection (b),
16 a person commits an offense if the person does any of the
17 following:

18 (1) Uses an electric or electronic incapacitation device
19 ~~or weapon~~ on another person FOR AN UNLAWFUL PURPOSE. <—

20 (2) Possesses, with intent to violate paragraph (1), an
21 electric or electronic incapacitation device.

22 (b) Self defense.--A person may possess and use an electric
23 or electronic incapacitation device in the exercise of
24 reasonable force in defense of the person or the person's
25 property, PURSUANT TO CHAPTER 5 (RELATING TO GENERAL PRINCIPLES <—
26 OF JUSTIFICATION), if the electric or electronic incapacitation
27 device is labeled with or accompanied by clearly written
28 instructions as to its use and the damages involved in its use.

29 (c) Prohibited possession.--No person prohibited from
30 possessing a firearm pursuant to section 6105 (relating to

1 persons not to possess, use, manufacture, control, sell or
2 transfer firearms) may possess or use an electric or electronic
3 incapacitation device.

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

8 (e) Exceptions.--Nothing in this section shall prohibit the
9 possession or use by, or the sale or furnishing of any electric
10 or electronic incapacitation device to, a law enforcement
11 agency, peace officer, employee of a correctional institution,
12 county jail or prison, or detention center, the National Guard
13 or reserves or a member of the National Guard or reserves for
14 use in their official duties.

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

24 Section 3. Sections 2702 and 2708 of Title 18 are amended to
25 read:

26 § 2702. Aggravated assault.

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

29 (1) attempts to cause serious bodily injury to another,
30 or causes such injury intentionally, knowingly or recklessly

1 under circumstances manifesting extreme indifference to the
2 value of human life;

3 (2) attempts to cause or intentionally, knowingly or
4 recklessly causes serious bodily injury to any of the
5 officers, agents, employees or other persons enumerated in
6 subsection (c) or to an employee of an agency, company or
7 other entity engaged in public transportation, while in the
8 performance of duty;

9 (3) attempts to cause or intentionally or knowingly
10 causes bodily injury to any of the officers, agents,
11 employees or other persons enumerated in subsection (c), in
12 the performance of duty;

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

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

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

28 (7) uses tear or noxious gas as defined in section
29 2708(b) (relating to use of tear or noxious gas in labor
30 disputes) or uses an electric or electronic incapacitation

device against any officer, employee or other person
enumerated in subsection (c) while acting in the scope of his
employment.

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

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

- (1) Police officer.
- (2) Firefighter.
- (3) County adult probation or parole officer.
- (4) County juvenile probation or parole officer.
- (5) An agent of the Pennsylvania Board of Probation and
Parole.
- (6) Sheriff.
- (7) Deputy sheriff.
- (8) Liquor control enforcement agent.
- (9) Officer or employee of a correctional institution,
county jail or prison, juvenile detention center or any other
facility to which the person has been ordered by the court
pursuant to a petition alleging delinquency under 42 Pa.C.S.
Ch. 63 (relating to juvenile matters).
- (10) Judge of any court in the unified judicial system.
- (11) The Attorney General.
- (12) A deputy attorney general.
- (13) A district attorney.
- (14) An assistant district attorney.
- (15) A public defender.

- 1 (16) An assistant public defender.
- 2 (17) A Federal law enforcement official.
- 3 (18) A State law enforcement official.
- 4 (19) A local law enforcement official.
- 5 (20) Any person employed to assist or who assists any
6 Federal, State or local law enforcement official.
- 7 (21) Emergency medical services personnel.
- 8 (22) Parking enforcement officer.
- 9 (23) A district justice.
- 10 (24) A constable.
- 11 (25) A deputy constable.
- 12 (26) A psychiatric aide.
- 13 (27) A teaching staff member, a school board member or
14 other employee, including a student employee, of any
15 elementary or secondary publicly funded educational
16 institution, any elementary or secondary private school
17 licensed by the Department of Education or any elementary or
18 secondary parochial school while acting in the scope of his
19 or her employment or because of his or her employment
20 relationship to the school.
- 21 (28) Governor.
- 22 (29) Lieutenant Governor.
- 23 (30) Auditor General.
- 24 (31) State Treasurer.
- 25 (32) Member of the General Assembly.
- 26 (33) An employee of the Department of Environmental
27 Protection.
- 28 (34) An individual engaged in the private detective
29 business, as defined in section 2(a) and (b) of the act of
30 August 21, 1953 (P.L.1273, No.361), known as The Private

1 Detective Act of 1953.

2 (35) AN EMPLOYEE OR AGENT OF A COUNTY CHILDREN AND YOUTH <—
3 SOCIAL SERVICE AGENCY.

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

8 "Electric or electronic incapacitation device." A portable
9 device which is designed or intended by the manufacturer to be
10 used, OFFENSIVELY OR DEFENSIVELY, to temporarily immobilize or <—
11 incapacitate persons by means of electric pulse or current,
12 including devices operated by means of carbon dioxide
13 propellant. THE TERM DOES NOT INCLUDE CATTLE PRODS, ELECTRIC <—
14 FENCES OR OTHER ELECTRIC DEVICES WHEN USED IN AGRICULTURAL,
15 ANIMAL HUSBANDRY OR FOOD PRODUCTION ACTIVITIES.

16 "Emergency medical services [personnel]" personnel. The
17 term includes, but is not limited to, doctors, residents,
18 interns, registered nurses, licensed practical nurses, nurse
19 aides, ambulance attendants and operators, paramedics, emergency
20 medical technicians and members of a hospital security force
21 while working within the scope of their employment.

22 § 2708. Use of tear or noxious gas in labor disputes.

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

27 (b) Definition.--As used in this section, the term "tear or
28 noxious gas" means any liquid or gaseous substance that, when
29 dispersed in the atmosphere, blinds the eyes with tears or
30 irritates or injures other organs and tissues of the human body

1 or causes nausea, including, but not limited to, red pepper
2 spray.

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