

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1117 Session of  
2003

INTRODUCED BY MAHER, GEIST, BENNINGHOFF, BUNT, CAPPELLI, CIVERA,  
COY, HARHAI, HERMAN, HORSEY, LAUGHLIN, McCALL, MELIO,  
S. MILLER, PAYNE, SATHER, STERN, WASHINGTON, WATSON, WILT AND  
YOUNGBLOOD, APRIL 9, 2003

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JULY 8, 2003

## AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, defining the offense of trespassing on  
3 railroad property; and providing for penalties.

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

6 Section 1. Title 18 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a section to read:

8 ~~§ 3504. Trespassing on railroad property.~~ <—

9 ~~(a) Trespassing on railroad property.~~

10 ~~(1) A person commits an offense if, without lawful~~  
11 ~~authority or the railroad carrier's consent, he enters or~~  
12 ~~remains upon property that he knows or reasonably should have~~  
13 ~~known to be railroad property, including the railroad right~~  
14 ~~of way or yard, by an act including, but not limited to:~~

15 ~~(i) Standing, sitting, resting, walking, jogging,~~  
16 ~~running, driving or operating a recreational or~~  
17 ~~nonrecreational vehicle, including, but not limited to, a~~

~~bicycle, motorcycle, snowmobile, all terrain vehicle, car  
or truck.~~

~~(ii) Engaging in recreational activity, including,  
but not limited to, bicycling, hiking, fishing, camping,  
cross country skiing or hunting, except for the purpose  
of crossing such property at a public highway or other  
authorized crossing.~~

~~(2) An offense under this subsection constitutes a  
misdemeanor of the third degree if the offender damages the  
premises. Otherwise it is a summary offense.~~

§ 3504. RAILROAD PROTECTION, RAILROAD VANDALISM AND

INTERFERENCE WITH TRANSPORTATION FACILITIES.

(A) DAMAGE TO RAILROAD OR DELAY OF RAILROAD OPERATIONS.--

(1) A PERSON COMMITS AN OFFENSE IF, WITHOUT LAWFUL  
AUTHORITY OR THE RAILROAD CARRIER'S CONSENT, HE CAUSES DAMAGE  
TO PROPERTY THAT HE KNOWS OR REASONABLY SHOULD HAVE KNOWN TO  
BE RAILROAD PROPERTY, INCLUDING THE RAILROAD RIGHT-OF-WAY OR  
YARD, OR CAUSES A DELAY IN RAILROAD OPERATIONS, BY AN ACT  
INCLUDING, BUT NOT LIMITED TO:

(I) KNOWINGLY, PURPOSEFULLY OR RECKLESSLY  
DISRUPTING, DELAYING OR PREVENTING THE OPERATION OF ANY  
TRAIN, JITNEY, TROLLEY OR ANY OTHER FACILITY OF  
TRANSPORTATION.

(II) DRIVING OR OPERATING A RECREATIONAL VEHICLE OR  
NONRECREATIONAL VEHICLE, INCLUDING, BUT NOT LIMITED TO, A  
BICYCLE, MOTORCYCLE, SNOWMOBILE, ALL-TERRAIN VEHICLE, CAR  
OR TRUCK.

(III) KNOWINGLY, PURPOSEFULLY OR RECKLESSLY DAMAGING  
RAILROAD PROPERTY, RAILROAD INFRASTRUCTURE OR RAILROAD  
EQUIPMENT OR USING RAILROAD PROPERTY TO ACCESS ADJOINING

1           PROPERTY TO COMMIT ACTS OF VANDALISM, THEFT OR OTHER  
2           CRIMINAL ACTS.

3           (2) AN OFFENSE UNDER THIS SUBSECTION CONSTITUTES A  
4           MISDEMEANOR OF THE THIRD DEGREE.

5           (b) Stowaways prohibited.--

6           (1) A person commits an offense if, without lawful  
7           authority or the railroad carrier's consent, he rides on the  
8           outside of a train or inside a passenger car, locomotive or  
9           freight car, including a box car, flatbed or container.

10          (2) An offense under this subsection constitutes a  
11          misdemeanor of the third degree.

12          ~~(c) Persons with lawful authority to be on specified~~           <—  
13 ~~railroad property. Subsections (a) and (b) do not apply to:~~

14          ~~(1) Passengers on trains or employees of a railroad~~  
15          ~~carrier while engaged in the performance of their official~~  
16          ~~duties.~~

17          ~~(2) Police officers, firefighters, peace officers and~~  
18          ~~emergency response personnel while engaged in the performance~~  
19          ~~of their official duties.~~

20          ~~(3) A person going upon railroad property in an~~  
21          ~~emergency to rescue a person or animal, such as livestock,~~  
22          ~~pets or wildlife, in imminent danger of death or serious~~  
23          ~~physical injury or to remove an object that the person~~  
24          ~~reasonably believes to pose an imminent danger of death or~~  
25          ~~serious physical injury.~~

26          ~~(4) A person on the station grounds or in the depot of~~  
27          ~~the railroad carrier as a passenger or for the purpose of~~  
28          ~~transacting lawful business.~~

29          ~~(5) A person or the person's family, invitee, employee~~  
30          ~~or independent contractor going upon a railroad's right of~~

~~way for the purpose of crossing at a private crossing site  
approved by the railroad carrier to obtain access to land  
that the person owns, leases or operates.~~

~~(6) A person having written permission from the railroad  
carrier to go upon the railroad property in question.~~

~~(7) Representatives of the Department of Transportation  
and the Pennsylvania Public Utility Commission while engaged  
in the performance of their official duties.~~

~~(8) Representatives of the Federal Railroad  
Administration while engaged in the performance of their  
official duties.~~

~~(9) Representatives of the National Transportation  
Safety Board while engaged in the performance of their  
official duties.~~

(C) LIMITATION ON LIABILITY.--

(1) A RAILROAD CARRIER OWES NO DUTY OF CARE TO KEEP ITS  
RAILROAD PROPERTY SAFE FOR ENTRY OR USE BY ANY PERSON WHO  
ENTERS UPON ANY RAILROAD PROPERTY OR RAILROAD RIGHT-OF-WAY OR  
TO GIVE ANY WARNING TO SUCH PERSON ENTERING OR GOING ON THAT  
RAILROAD PROPERTY OF A DANGEROUS CONDITION, USE OR ACTIVITY  
THEREON.

(2) EXCEPT AS SET FORTH IN PARAGRAPH (3), A RAILROAD  
CARRIER SHALL NOT:

(I) BE PRESUMED TO EXTEND ANY ASSURANCE TO A PERSON  
ENTERING OR GOING ON RAILROAD PROPERTY WITHOUT THE  
RAILROAD CARRIER'S CONSENT THAT THE RAILROAD PROPERTY IS  
SAFE FOR ANY PURPOSE.

(II) INCUR ANY DUTY OF CARE TOWARD A PERSON ENTERING  
OR GOING ON RAILROAD PROPERTY WITHOUT THE RAILROAD  
CARRIER'S CONSENT.

1           (III) BECOME LIABLE FOR ANY INJURY TO A PERSON  
2           ENTERING OR GOING ON RAILROAD PROPERTY WITHOUT THE  
3           RAILROAD CARRIER'S CONSENT CAUSED BY AN ACT OR OMISSION  
4           OF SUCH PERSON.

5           (3) NOTHING IN THIS SUBSECTION LIMITS IN ANY WAY ANY  
6           LIABILITY WHICH OTHERWISE EXISTS FOR WILLFUL OR MALICIOUS  
7           FAILURE TO GUARD OR WARN AGAINST A DANGEROUS CONDITION, USE  
8           OR ACTIVITY.

9           (d) Definitions.--As used in this section, the following  
10          words and phrases shall have the meanings given to them in this  
11          subsection:

12          ~~"Passengers." Persons who are traveling by train with lawful~~ <—  
13          ~~authority and who do not participate in the train's operation.~~  
14          ~~The term does not include stowaways.~~

15          "Railroad." Any form of nonhighway ground transportation  
16          that runs on rails or electromagnetic guideways, including, but  
17          not limited to:

18               (1) Commuter or other short-haul railroad passenger  
19               service in a metropolitan or suburban area.

20               (2) High-speed ground transportation systems that  
21               connect metropolitan areas, but not rapid transit operations  
22               in an urban area that are not connected to the general  
23               railroad system of transportation.

24          "Railroad carrier." A person, INCLUDING, BUT NOT LIMITED TO, <—  
25          AN OWNER OR OPERATOR providing railroad transportation.

26          "Railroad carrier's consent." Written or other affirmative  
27          communication of permission to be on railroad property. Consent  
28          shall not be implied.

29          "Railroad property." All tangible property owned, leased or  
30          operated by a railroad carrier, including a right-of-way, track,

1 bridge, yard, shop, station, tunnel, viaduct, trestle, depot,  
2 warehouse, terminal or any other structure, appurtenance or  
3 equipment owned, leased or used in the operation of any railroad  
4 carrier including a train, locomotive, engine, railroad car,  
5 work equipment, rolling stock or safety device. The term does  
6 not include a railroad carrier's administrative building or  
7 offices, office equipment or intangible property such as  
8 computer software or other information.

9 "Right-of-way." The track or roadbed owned, leased or  
10 operated by a railroad carrier which is located on either side  
11 of its tracks and which is readily recognizable to a reasonable  
12 person as being railroad property or is reasonably identified as  
13 such by fencing or appropriate signs.

14 "Yard." A system of parallel tracks, crossovers and switches  
15 where railroad cars are switched and made up into trains and  
16 where railroad cars, locomotives and other rolling stock are  
17 kept when not in use or when awaiting repairs.

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