

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 552 Session of 2009

INTRODUCED BY CLYMER, BARRAR, BEAR, BELFANTI, BOYD, BRENNAN, BROOKS, CAUSER, COHEN, CREIGHTON, DONATUCCI, D. EVANS, FABRIZIO, FLECK, GEIST, GIBBONS, HARKINS, HELM, HESS, M. KELLER, KILLION, KORTZ, MAJOR, MANN, MILLARD, MOUL, MURT, D. O'BRIEN, O'NEILL, PALLONE, PAYNE, PETRI, PHILLIPS, PICKETT, QUINN, RAPP, READSHAW, ROHRER, SCAVELLO, SIPTROTH, K. SMITH, STERN, STEVENSON, VULAKOVICH, WALKO, WATSON AND YOUNGBLOOD, FEBRUARY 23, 2009

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 23, 2009

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedures) of the Pennsylvania Consolidated
3 Statutes, further providing for arson and related offenses;
4 and providing for sentences for arson of a historic resource.

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

7 Section 1. Section 3301(h) and (j) of Title 18 of the
8 Pennsylvania Consolidated Statutes are amended and the section
9 is amended by adding a subsection to read:

10 § 3301. Arson and related offenses.

11 * * *

12 (a.1) Arson of historic resource.--A person commits a felony
13 of the second degree if the person, with the intent of
14 destroying or damaging a historic resource of another, does any
15 of the following:

16 (1) Intentionally starts a fire or causes an explosion,

1 whether on the person's own property or that of another.

2 (2) Aids, counsels, pays or agrees to pay another to
3 cause a fire or explosion.

4 * * *

5 (h) Limitations on liability.--The provisions of subsections
6 (a), (a.1), (b), (c), (d), (d.1) and (e) shall not be construed
7 to establish criminal liability upon any volunteer or paid
8 firefighter or volunteer or paid firefighting company or
9 association if said company or association endangers a
10 participating firefighter or real or personal property in the
11 course of an approved, controlled fire training program or fire
12 evolution, provided that said company or association has
13 complied with the following:

14 (1) a sworn statement from the owner of any real or
15 personal property involved in such program or evolution that
16 there is no fire insurance policy or no lien or encumbrance
17 exists which applies to such real or personal property;

18 (2) approval or permits from the appropriate local
19 government or State officials, if necessary, to conduct such
20 program or exercise have been received;

21 (3) precautions have been taken so that the program or
22 evolution does not affect any other persons or real or
23 personal property; and

24 (4) participation of firefighters in the program or
25 exercise if voluntary.

26 * * *

27 (j) Definitions.--As used in this section the following
28 words and phrases shall have the meanings given to them in this
29 subsection:

30 "Historic resource." A building or structure, including a

1 covered bridge, which meets any of the following:

2 (1) Has been in existence for more than 100 years,
3 including partial or complete reconstructions of a building
4 or structure originally erected at least 100 years ago.

5 (2) Has been listed on the National Register of Historic
6 Places or the Pennsylvania Register of Historic Places.

7 "Occupied structure." Any structure, vehicle or place
8 adapted for overnight accommodation of persons or for carrying
9 on business therein, whether or not a person is actually
10 present. If a building or structure is divided into separately
11 occupied units, any unit not occupied by the actor is an
12 occupied structure of another.

13 "Property of another." A building or other property, whether
14 real or personal, in which a person other than the actor has an
15 interest which the actor has no authority to defeat or impair,
16 even though the actor may also have an interest in the building
17 or property.

18 Section 2. Title 42 is amended by adding a section to read:

19 § 9720.3. Sentences for arson of a historic resource.

20 (a) Mandatory sentence.--Any person who commits a violation
21 of 18 Pa.C.S. § 3301(a.1) (relating to arson and related
22 offenses) shall be sentenced to a minimum sentence of at least
23 one year of total confinement.

24 (b) Proof at sentencing.--Provisions of this section shall
25 not be an element of the crime, and notice of the provisions of
26 this section to the defendant shall not be required prior to
27 conviction, but reasonable notice of the Commonwealth's
28 intention to proceed under this section shall be provided after
29 conviction and before sentencing. The applicability of this
30 section shall be determined at sentencing. The court shall

1 consider any evidence presented at trial and shall afford the
2 Commonwealth and the defendant an opportunity to present any
3 necessary additional evidence and shall determine, by a
4 preponderance of the evidence, if this section is applicable.

5 (c) Authority of court in sentencing.--There shall be no
6 authority in any court to impose on an offender to which this
7 section is applicable any lesser sentence than provided for in
8 subsection (a) or to place the offender on probation or to
9 suspend sentence. Nothing in this section shall prevent the
10 sentencing court from imposing a sentence greater than that
11 provided in this section. Sentencing guidelines promulgated by
12 the Pennsylvania Commission on Sentencing shall not supersede
13 the mandatory sentences provided under this section.

14 (d) Appeal by Commonwealth.--If a sentencing court refuses
15 to apply this section where applicable, the Commonwealth shall
16 have the right to appellate review of the action of the
17 sentencing court. The appellate court shall vacate the sentence
18 and remand the case to the sentencing court for imposition of a
19 sentence in accordance with this section if it finds that the
20 sentence was imposed in violation of this section.

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