



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 80

PRINTERS NO. 4318

PRIME SPONSOR: Metcalfe

COST / (SAVINGS)

FUND	FY 2014/15	FY 2015/16
General Fund	\$0	See Fiscal Impact below.

SUMMARY: House Bill 80 amends the Crimes Code concerning criminal trespass and the regulation of firearms and ammunition, and by adding the new offense of theft of secondary metal. It would take effect in 60 days.

ANALYSIS: House Bill 80 amends and adds several provisions throughout the Crimes Code. The changes are described under the headings below:

Simple Trespass

House Bill 80 increases the grading of simple trespass from a summary offense to a misdemeanor of the first degree with a maximum penalty of five years in prison and a \$10,000 fine if the offense was for the purpose of unlawfully taking secondary metal.

Theft of Secondary Metal

This legislation also adds section 3935 to the Crimes Code concerning the theft of secondary metal. Secondary metal is defined as wire pipe or cable commonly used by communications, gas and electrical utilities and railroads and mass transit or commuter rail agencies, copper, aluminum or other metal, or a combination of metals, valuable for recycling or reuse as raw material.

The offense is graded as follows:

1. When the value of the metal is less than \$50, the theft is a misdemeanor of the third degree with a maximum penalty of one year in prison and a \$2,500 fine.
2. When the value of the metal is \$50 or more but less than \$200, the theft is a misdemeanor of second degree with a maximum penalty of two years in prison and a \$5,000 fine.
3. When the value of the metal is \$200 or more but less than \$1,000, the theft is a misdemeanor of the first degree with a maximum penalty of five years in prison and a \$10,000 fine.
4. When the value of the metal is \$1,000 or more, the theft is a felony of the third degree with a maximum penalty of seven years in prison and a \$15,000 fine.

When the offense is a third or subsequent offense, regardless of the value of the metal stolen, the theft is a felony of the third degree.

Regulation of Firearms and Ammunition

House Bill 80 amends the Crimes Code by requiring the PA State Police to send existing mental health data to the National Instant Criminal Background Check System (NICS), which is utilized to check the backgrounds of individuals attempting to acquire a firearm nationwide. The bill additionally requires ongoing submissions of this data to NICS within 72 hours of the State Police receiving it.

This legislation also amends the Crimes Code concerning limitations on the regulation of firearms and ammunition. It establishes that a person adversely affected by any county, township, or municipal regulation on firearms or ammunition promulgated or enforced in violation of state limitations on such regulations, may seek injunctive and declarative relief, as well as damages. The amendment establishes that a “person adversely affected” who brings or maintains a civil action in such cases is entitled to “reasonable expenses,” defined as attorney fees, expert witness fees, court costs, and compensation for loss of income.

Furthermore, the amendment clarifies and defines who has lawful standing to file suit claiming that an ordinance, resolution, rule or practice violates the state preemption statute by defining the term “person adversely affected” to include any resident of the Commonwealth who may legally possess a firearm under Federal and State law, in addition to any person who otherwise has standing pursuant to the laws of the Commonwealth to bring an action. The term also includes any membership organization in which such a person is a member.

FISCAL IMPACT: This legislation could eventually impact Commonwealth and local finances due to increased prison sentences for simple trespass or thefts involving secondary metal. However, no reliable data exist to estimate how many individuals may be arrested, convicted, and sentenced for these crimes, and at what values within the offense grading scale summarized above.

Concerning the regulation of firearms and ammunition, enactment of this legislation will have no adverse impact on Commonwealth funds. It could impact local government finances to the extent that any local government has an ordinance, resolution, rule or practice successfully challenged in court and is required to pay damages.

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House Appropriations Committee (R)

DATE: October 20, 2014

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.