

THOMAS J. QUIGLEY, MEMBER
146TH LEGISLATIVE DISTRICT

HARRISBURG OFFICE
PO BOX 202146
HARRISBURG, PA 17120-2146
PHONE: (717) 772-9963
FAX: (717) 772-2434

EMAIL: TQUIGLEY@PAHOUSEGOP.COM

DISTRICT OFFICE
1963 EAST HIGH STREET
SUITE 100
POTTSTOWN, PA 19464
PHONE: (610) 326-9563
FAX: (610) 718-5787



House of Representatives
Commonwealth of Pennsylvania
Harrisburg

COMMITTEES

APPROPRIATIONS
EDUCATION
LIQUOR CONTROL
HUMAN SERVICES

MEMORANDUM

TO: All House Members

FROM: Representative Thomas J. Quigley
146th Legislative District

DATE: March 21, 2011

SUBJECT: Retail Theft Law

In the near future, I am planning to introduce legislation that will treat repeat offenders of the retail theft statute the same regardless of whether the offender was given the privilege of participation in the Accelerated Rehabilitation Program(ARD) program the first time they violated the statute.

Under Section 3929(b) of Title 18 (Crimes Code), a second violation of retail theft carries a grading that is no less than a misdemeanor of the second degree. However, the Pennsylvania Superior Court in *Commonwealth v. Graeff* held that the definition of second offense in the retail theft statute did not include an individual who was given the privilege of participating in ARD the first time they committed a retail theft. In the *Graeff* case, the defendant was participating in an ARD program for a retail theft when she pled guilty to a second retail theft. The Superior Court found that because the Defendant was participating in ARD and that the statute did not specifically include ARD participation as counting towards prior offenses, that the new offense should be handled as a first offense. With the Defendant's new retail theft offense considered a first offense, the grading then reverted to a summary offense, and the Defendant's criminal liability greatly diminished. The opinion of the Superior Court was that the language of the statute would need to be amended to include participation in ARD to count as a first offense, much like the DUI statute, for an individual in the Defendant's situation to be charged as a second offense.

My legislation closes this loophole and holds defendants equally accountable when they commit subsequent violations of the retail theft statute.

If you wish to co-sponsor this legislation, please contact my office by calling Lauren Pacella at 772-9963 or email her at lpacella@pahousegop.com.