

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1059 Session of
2005

INTRODUCED BY WALKO, BIANCUCCI, GERGELY, KOTIK, PISTELLA AND
RUFFING, MARCH 21, 2005

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 21, 2005

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for the offense of
3 deceptive or fraudulent business practices.

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

6 Section 1. Section 4107(a.1) of Title 18 of the Pennsylvania
7 Consolidated Statutes, November 30, 2004 (P.L.1592, No.202) and
8 December 8, 2004 (P.L.1781, No.234), is amended and the section
9 is amended by adding subsections to read:

10 § 4107. Deceptive or fraudulent business practices.

11 * * *

12 (a.1) Grading of offenses.--

13 [(1) A violation of this section, except for subsection
14 (a)(10), constitutes:

15 (i) a felony of the third degree if the amount
16 involved exceeds \$2,000;

17 (ii) a misdemeanor of the first degree if the amount
18 involved is \$200 or more but \$2,000 or less;

(iii) a misdemeanor of the second degree if the amount involved is less than \$200; or

(iv) when the amount involved cannot be satisfactorily ascertained, the offense constitutes a misdemeanor of the second degree.]

(1.1) A violation of this section constitutes:

(i) a felony of the first degree if the amount involved is \$500,000 or more;

(ii) a felony of the second degree if the amount involved is \$100,000 or more but less than \$500,000;

(iii) a felony of the third degree if the amount involved is \$2,000 or more but less than \$100,000;

(iv) a misdemeanor of the first degree if the amount is \$200 or more but less than \$2,000;

(v) a misdemeanor of the second degree if the amount is less than \$200; or

(vi) a misdemeanor of the second degree, if the amount involved cannot be satisfactorily ascertained.

(2) Amounts involved in deceptive or fraudulent business practices pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense.

(3) Where a person commits an offense under subsection (a) and the victim of the offense is 60 years of age or older, the grading of the offense shall be one grade higher than specified in paragraph [(1)] (1.1).

(4) An offense under subsection (a)(10) shall be a summary offense and shall be punishable by a fine not less than \$50 and not to exceed \$500.

* * *

1 (a.3) Sentencing enhancement for offenses involving public
2 funds or breach of a fiduciary duty.--Notwithstanding any other
3 provision of law to the contrary, the maximum term of
4 imprisonment for an offense under this section may be increased
5 by a term of imprisonment of up to five years when the offense
6 involves the Commonwealth, a political subdivision, a local
7 authority or a public or private charitable organization or when
8 the offense constitutes a breach of fiduciary duty. The
9 prosecution must indicate intent to proceed under this
10 subsection in the criminal information or other filing which
11 commences the prosecution.

12 * * *

13 (d) Definition.--As used in this section, the term
14 "charitable organization" has the meaning given to it in section
15 3 of the act of December 19, 1990 (P.L.1200, No.202), known as
16 the Solicitation of Funds for Charitable Purposes Act.

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