

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1548 Session of
2001

INTRODUCED BY READSHAW, MAYERNIK, GEIST, CALTAGIRONE,
CAPPABIANCA, L. I. COHEN, DALEY, FRANKEL, HARHAI, HORSEY,
KELLER, LEVDANSKY, MANN, MARKOSEK, SHANER, STABACK, THOMAS,
WASHINGTON, WOJNAROSKI, YOUNGBLOOD, J. TAYLOR, PRESTON, BARD
AND PISTELLA, MAY 8, 2001

REFERRED TO COMMITTEE ON JUDICIARY, MAY 8, 2001

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, defining offenses relating to weapons
3 of mass destruction.

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 § 2716. Weapons of mass destruction.

9 (a) Possession and use of weapons of mass destruction.--

10 (1) A person commits a felony of the third degree if,
11 without lawful authority to do so, he possesses, develops,
12 manufactures, produces, transfers, acquires or retains a
13 weapon of mass destruction. A second or subsequent offense
14 under this paragraph shall constitute a felony of the second
15 degree.

16 (2) A person commits a felony of the first degree if he
17 uses or directly employs against another person a weapon of

1 mass destruction in a form that may cause widespread,
2 disabling illness or injury to human beings and shall, upon
3 conviction, be sentenced to a term of life imprisonment.

4 (3) A person commits a felony of the first degree if he
5 uses a weapon of mass destruction in a form that may cause
6 widespread damage and disruption to a water or food supply.

7 (4) A person commits a felony of the first degree if he
8 maliciously uses against animals or crops a weapon of mass
9 destruction in a form that may cause widespread and
10 substantial diminution in the value of stock animals or
11 crops.

12 (5) A person commits a felony of the first degree if he
13 uses a weapon of mass destruction in a form that may cause
14 widespread and significant damage to public natural
15 resources, including, but not limited to, waterways, State
16 forests or parks, surface water, groundwater and wildlife.

17 (6) A person commits a felony of the first degree if he
18 uses recombinant technology or any other biological advance
19 to create a new pathogen or more violent form of existing
20 pathogen.

21 (7) Nothing in this subsection shall be construed to
22 prevent punishment pursuant to any other provision of law
23 that imposes a greater or more severe penalty.

24 (b) Threats to use weapons of mass destruction.--

25 (1) A person commits a misdemeanor of the third degree
26 if he knowingly threatens to use a weapon of mass
27 destruction, with the specific intent that the threat made
28 verbally, in writing or by means of any electronic
29 communication device is to be taken as a threat, even if
30 there is no intent of actually carrying it out, which, on its

1 face and under the circumstances in which it is made, is so
2 unequivocal, immediate and specific as to convey to the
3 person threatened a gravity of purpose and an immediate
4 prospect of execution of the threat, and thereby causes that
5 person reasonably to be in sustained fear for that person's
6 own safety, which results in an isolation, quarantine or
7 decontamination effort.

8 (2) For the purposes of this subsection, "sustained
9 fear" may be established by, but is not limited to, any of
10 the following conduct:

11 (i) The evacuation of any building by any occupant.

12 (ii) The evacuation of any school by any employee or
13 student.

14 (iii) The evacuation of any home by any resident or
15 occupant.

16 (iv) Any other action taken in direct response to
17 the threat to use a weapon of mass destruction.

18 (3) It shall not be a defense to a prosecution under
19 this subsection that the person who allegedly violated this
20 subsection did not actually possess a biological agent, toxin
21 or chemical weapon.

22 (4) Nothing in this subsection shall be construed to
23 prevent punishment pursuant to any other provision of law
24 that imposes a greater or more severe penalty.

25 (c) Possession of restricted biological agents.--

26 (1) A person or entity commits a felony of the first
27 degree if that person or entity possesses any of the
28 following restricted biological agents:

29 (i) Viruses: Crimean-Congo hemorrhagic fever virus;

30 Eastern equine encephalitis virus; E bola viruses; equine

morbilli virus; lassa fever virus; marburg virus; Rift Valley fever virus; South African hemorrhagic fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito); tick-borne encephalitis complex viruses; variola major virus (smallpox virus); Venezuelan equine encephalitis virus; viruses causing hantavirus pulmonary syndrome; or yellow fever virus.

(ii) Bacteria: Bacillus anthracis (commonly known as anthrax); brucella abortus; brucella melitensis; brucella suis; burkholderia (pseudomonas) mallei; burkholderia (pseudomonas) pseudomallei; clostridium botulinum; francisella tularensis; or yersinia pestis (commonly known as plague).

(iii) Rickettsiae: Coxiella burnetii; rickettsia prowazekii; or rickettsia rickettsii.

(iv) Fungi: Coccidioides immitis.

(v) Toxins: Abrin; aflatoxins; botulinum toxins; clostridium perfringens epsilon toxin; conotoxins; diacetoxyscirpenol; ricin; saxitoxin; shigatoxin; staphylococcal enterotoxins; tetrodotoxin; or T-2 toxin.

(2) This subsection shall not apply to any physician, veterinarian, pharmacist or licensed medical practitioner authorized to dispense a prescription under the laws of this Commonwealth, or a university, research institution, pharmaceutical corporation or any person possessing the restricted biological agents listed in paragraph (1) pursuant to a lawful prescription issued by any of those persons, if they possess vaccine strains of the viral agents Junin virus strain No. 1; Rift Valley fever virus strain MP-12; Venezuelan equine encephalitis virus strain TC-83 and yellow

1 fever virus strain 17-D; any vaccine strain described in 9
2 CFR 78.1 (relating to definitions), and any toxin for medical
3 use, inactivated for use as vaccines or toxin preparation for
4 biomedical research use at a median lethal dose for
5 vertebrates of more than 100 ng/kg, as well as any national
6 standard toxin required for biologic potency testing as
7 described in 9 CFR Ch. 1 Subch. E Pt. 113 (relating to
8 standard requirements).

9 (3) For the purposes of this subsection, no person shall
10 be construed to be in possession of an agent if the person is
11 naturally exposed to or innocently infected or contaminated
12 with the agent.

13 (4) A peace officer who encounters any of the restricted
14 biological agents listed in paragraph (1) shall immediately
15 notify and consult with a local public health officer to
16 ensure proper consideration of any public health risk.

17 (5) Nothing in this subsection shall be construed to
18 prevent punishment pursuant to any other provision of law
19 that imposes a greater or more severe punishment.

20 (d) Construction.--

21 (1) The intentional release of a dangerous chemical or
22 hazardous material generally utilized in an industrial or
23 commercial process shall be construed to be use of a weapon
24 of mass destruction when a person knowingly utilizes the
25 dangerous chemical or hazardous material with the intent to
26 cause harm and the use places persons or animals at risk of
27 serious injury, illness or death or endangers the
28 environment.

29 (2) This section does not apply to the lawful use of
30 chemicals for legitimate mineral extraction, industrial,

agricultural or commercial purposes.

(3) This section does not apply to a university, research institution, private company, individual or hospital engaged in scientific or public health research and, as required, registered with the Centers for Disease Control and Prevention pursuant to 9 CFR Ch. 1 Subch. E Pt. 113 or 42 CFR Ch. 1 Subch. E Pt. 72 (relating to interstate shipment of etiologic agents).

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

"Chemical warfare agent." Any of the following weaponized agents, or any analog of the agents:

(1) Nerve agent, including Tabun (GA), Sarin (GB), Soman (GD), GF and VX.

(2) Choking agent, including Phosgene (CG) and Diphosgene (DP).

(3) Blood agent, including Hydrogen Cyanide (AC), Cyanogen Chloride (CK) and Arsine (SA).

(4) Blister agent, including mustard (H, HD (sulfur mustard), HN-1, HN-2, HN-3 (nitrogen mustard)), arsenical, such as Lewisite (L), urticant, such as CX; and incapacitating agent, such as BZ.

"Nuclear or radiological agent." Any improvised nuclear device which is any explosive device designed to cause a nuclear yield; any radiological dispersal device which is any explosive device utilized to spread radioactive material; or a simple radiological dispersal device which is any act or container designed to release radiological material as a weapon without an explosion.

1 "Vector." A living organism or a molecule, including a
2 recombinant molecule or a biological product that may be
3 engineered as a result of biotechnology that is capable of
4 carrying a biological agent or toxin to a host.

5 "Weapon of mass destruction." Any chemical warfare agents,
6 weaponized biological or biologic warfare agents, nuclear
7 agents, radiological agents or the intentional release of
8 industrial agents as a weapon.

9 "Weaponization" or "weaponized." The deliberate processing,
10 preparation, packaging or synthesis of any substance for use as
11 a weapon or munition.

12 "Weaponized agent." Any agent or substance prepared for
13 dissemination through any explosive, thermal, pneumatic or
14 mechanical means.

15 "Weaponized biological or biologic warfare agent." Any
16 weaponized pathogen such as bacteria, virus, rickettsia, yeast,
17 fungi or genetically engineered pathogen, toxin, vector or
18 endogenous biological regulator (EBR).

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