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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 713 Session of  
1991

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INTRODUCED BY TANGRETTI, MAYERNIK, HERMAN, MARKOSEK, MARSICO,  
JOHNSON, GEIST, NAILOR, ITKIN, KUKOVICH, FAIRCHILD, SCHEETZ,  
CAPPABIANCA, FLEAGLE, E. Z. TAYLOR, BATTISTO, NOYE, CARLSON,  
PESCI, ROBINSON, SCHULER, M. N. WRIGHT, MELIO, JOSEPHS,  
DALEY, COY, VEON, TRELLO, KOSINSKI, HAGARTY, GIGLIOTTI,  
KRUSZEWSKI, BELARDI, OLASZ, MIHALICH, STURLA, SAURMAN,  
STABACK, STAIRS, PRESTON, CIVERA, FARGO, MICHLOVIC, STISH,  
KING AND TELEK, MARCH 13, 1991

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SENATOR LOEPER, RULES AND EXECUTIVE NOMINATIONS, IN SENATE, RE-  
REPORTED AS AMENDED, NOVEMBER 17, 1992

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AN ACT

1 Amending ~~Title 18 (Crimes and Offenses)~~ TITLES 18 (CRIMES AND <—  
2 OFFENSES) AND 42 (JUDICIARY AND JUDICIAL PROCEDURE) of the  
3 Pennsylvania Consolidated Statutes, further providing for a  
4 prohibited offensive weapons exemption for liquor control  
5 enforcement officers; ~~and~~ prohibiting the possession of a <—  
6 firearm or other dangerous weapon in a court facility; <—  
7 FURTHER PROVIDING FOR USE OF FORCE IN PROTECTING PROPERTY,  
8 FOR SENTENCING FOR FIRST DEGREE MURDER AND FOR SENTENCING FOR  
9 OFFENSES COMMITTED WITH FIREARMS; AND PROVIDING FOR  
10 SENTENCING FOR ROBBERY OF CARS.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 ~~Section 1. Section 908(d) of Title 18 of the Pennsylvania <—  
14 Consolidated Statutes is amended by adding a paragraph to read:~~

15 SECTION 1. SECTION 507(C)(4) OF TITLE 18 OF THE PENNSYLVANIA <—  
16 CONSOLIDATED STATUTES IS AMENDED BY ADDING A SUBPARAGRAPH TO  
17 READ:

18 § 507. USE OF FORCE FOR THE PROTECTION OF PROPERTY.

1 \* \* \*

2 (C) LIMITATIONS ON JUSTIFIABLE USE OF FORCE.--

3 \* \* \*

4 (4) \* \* \*

5 (III) THE USE OF DEADLY FORCE IS JUSTIFIABLE UNDER  
6 THIS SECTION IF:

7 (A) THERE IS AN UNLAWFUL ENTRY OR THREATENED  
8 ENTRY INTO A MOTOR VEHICLE OCCUPIED BY THE ACTOR;

9 (B) THE ENTRY OR THREATENED ENTRY IS EFFECTED BY  
10 FORCE OR THE THREAT OF FORCE; AND

11 (C) THE ACTOR NEITHER BELIEVES NOR HAS REASON TO  
12 BELIEVE THAT FORCE LESS THAN DEADLY FORCE WOULD BE  
13 ADEQUATE TO TERMINATE THE ENTRY OR THREATENED ENTRY.

14 \* \* \*

15 SECTION 2. SECTION 908(D) OF TITLE 18 IS AMENDED BY ADDING A  
16 PARAGRAPH TO READ:

17 § 908. Prohibited offensive weapons.

18 \* \* \*

19 (d) Exemptions.--The use and possession of blackjacks by the  
20 following persons in the course of their duties are exempt from  
21 this section:

22 (1) Police officers, as defined by and who meet the  
23 requirements of the act of June 18, 1974 (P.L.359, No.120),  
24 referred to as the Municipal Police Education and Training  
25 Law.

26 (2) Police officers of first class cities who have  
27 successfully completed training which is substantially  
28 equivalent to the program under the Municipal Police  
29 Education and Training Law.

30 (3) Pennsylvania State Police officers.

1 (4) Sheriffs and deputy sheriffs of the various counties  
2 who have satisfactorily met the requirements of the Municipal  
3 Police Education and Training Law.

4 (5) Police officers employed by the Commonwealth who  
5 have satisfactorily met the requirements of the Municipal  
6 Police Education and Training Law.

7 (6) Deputy sheriffs with adequate training as determined  
8 by the Pennsylvania Commission on Crime and Delinquency.

9 (7) Liquor Control Board agents who have satisfactorily  
10 met the requirements of the Municipal Police Education and  
11 Training Law.

12 (8) Liquor control enforcement officers who have  
13 successfully completed the Liquor Control Enforcement  
14 Training Program as provided by the Pennsylvania State  
15 Police.

16 Section 2 3. Title 18 is amended by adding a section to  
17 read:

18 § 913. Possession of firearm or other dangerous weapon in court  
19 facility.

20 (a) Offense defined.--A person commits an offense if he:

21 (1) knowingly possesses a firearm or other dangerous  
22 weapon in a court facility or knowingly causes a firearm or  
23 other dangerous weapon to be present in a court facility; or

24 (2) knowingly possesses a firearm or other dangerous  
25 weapon in a court facility with the intent that the firearm  
26 or other dangerous weapon be used in the commission of a  
27 crime or knowingly causes a firearm or other dangerous weapon  
28 to be present in a court facility with the intent that the  
29 firearm or other dangerous weapon be used in the commission  
30 of a crime.

1 (b) Grading.--

2 (1) Except as otherwise provided in paragraph (3), an  
3 offense under subsection (a)(1) is a misdemeanor of the third  
4 degree.

5 (2) An offense under subsection (a)(2) is a misdemeanor  
6 of the first degree.

7 (3) An offense under subsection (a)(1) is a summary  
8 offense if the person was carrying a firearm pursuant to  
9 section 6106(b) (relating to firearms not to be carried  
10 without license) or section 6109 (relating to licenses) and  
11 failed to check the firearm under subsection (e) prior to  
12 entering the court facility.

13 (c) Exceptions.--Subsection (a) shall not apply:

14 (1) To the lawful performance of official duties by an  
15 officer, agent or employee of the United States, the  
16 Commonwealth or a political subdivision who is authorized by  
17 law to engage in or supervise the prevention, detection,  
18 investigation or prosecution of any violation of law.

19 (2) To the lawful performance of official duties by a  
20 court official.

21 (3) To the carrying of rifles and shotguns by  
22 instructors and participants in a course of instruction  
23 provided by the Pennsylvania Game Commission under 34 Pa.C.S.  
24 § 2704 (relating to eligibility for license).

25 (d) Posting of notice.--Notice of the provisions of  
26 subsection (a) shall be posted conspicuously at each public  
27 entrance to each courthouse or other building containing a court  
28 facility and each court facility, and no person shall be  
29 convicted of an offense under subsection (a) with respect to a  
30 court facility if the notice was not so posted at the courthouse

1 or other building containing a court facility and at the court  
2 facility, unless the person had actual notice of the provisions  
3 of subsection (a).

4 (e) Facilities for checking firearms.--Each county shall  
5 make available at or near the main entrance to the courthouse,  
6 lockers or similar facilities for the temporary checking of  
7 firearms by persons lawfully carrying firearms.

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

11 "Court facility." The courtroom of a court of record; a  
12 courtroom of a community court; the courtroom of a district  
13 justice; a courtroom of the Philadelphia Municipal Court; a  
14 courtroom of the Pittsburgh Magistrates Court; a courtroom of  
15 the Traffic Court of Philadelphia; judge's chambers; witness  
16 room; jury deliberation rooms; attorney conference rooms;  
17 prisoner holding cells; offices of court clerks, the district  
18 attorney, the sheriff and probation and parole officers; and any  
19 adjoining corridors.

20 "Dangerous weapon." A bomb, grenade, blackjack, sandbag,  
21 metal knuckles, dagger, knife, razor or cutting instrument, the  
22 blade of which is exposed in an automatic way by switch, push-  
23 button, spring mechanism, or otherwise, or other implement for  
24 the infliction of serious bodily injury which serves no common  
25 lawful purpose.

26 "Firearm." Any weapon, including a starter gun, which will  
27 or is designed to expel a projectile or projectiles by the  
28 action of an explosion, expansion of gas or escape of gas. Such  
29 term shall not include any device designed or used exclusively  
30 for the firing of stud cartridges, explosive rivets or similar

1 industrial ammunition.

2 ~~Section 3. This act shall take effect in 60 days.~~ <—

3 SECTION 4. SECTION 9711(D) OF TITLE 42 IS AMENDED BY ADDING <—

4 A PARAGRAPH TO READ:

5 § 9711. SENTENCING PROCEDURE FOR MURDER OF THE FIRST DEGREE.

6 \* \* \*

7 (D) AGGRAVATING CIRCUMSTANCES.--AGGRAVATING CIRCUMSTANCES  
8 SHALL BE LIMITED TO THE FOLLOWING:

9 \* \* \*

10 (17) THE DEFENDANT COMMITTED THE KILLING OR WAS LIABLE  
11 FOR THE KILLING UNDER 18 PA.C.S. § 306 IN THE COURSE OF  
12 COMMITTING AN OFFENSE UNDER 18 PA.C.S. § 3701 (RELATING TO  
13 ROBBERY) IN WHICH THE PROPERTY TAKEN WAS A MOTOR VEHICLE  
14 OCCUPIED BY ANOTHER PERSON.

15 \* \* \*

16 SECTION 5. SECTION 9712(A) OF TITLE 42 IS AMENDED TO READ:

17 § 9712. SENTENCES FOR OFFENSES COMMITTED WITH FIREARMS.

18 (A) MANDATORY SENTENCE.--ANY PERSON WHO IS CONVICTED IN ANY  
19 COURT OF THIS COMMONWEALTH OF MURDER OF THE THIRD DEGREE,  
20 VOLUNTARY MANSLAUGHTER, RAPE, INVOLUNTARY DEVIATE SEXUAL  
21 INTERCOURSE, ROBBERY AS DEFINED IN 18 PA.C.S. § 3701(A)(1)(I),  
22 (II) [OR (III)], (III), (IV) OR (V) (RELATING TO ROBBERY), IN  
23 WHICH THE PROPERTY TAKEN WAS A MOTOR VEHICLE, AGGRAVATED ASSAULT  
24 AS DEFINED IN 18 PA.C.S. § 2702(A)(1) (RELATING TO AGGRAVATED  
25 ASSAULT) OR KIDNAPPING, OR WHO IS CONVICTED OF ATTEMPT TO COMMIT  
26 ANY OF THESE CRIMES, SHALL, IF THE PERSON VISIBLY POSSESSED A  
27 FIREARM DURING THE COMMISSION OF THE OFFENSE, BE SENTENCED TO A  
28 MINIMUM SENTENCE OF AT LEAST FIVE YEARS OF TOTAL CONFINEMENT  
29 NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE OR OTHER  
30 STATUTE TO THE CONTRARY.

1 \* \* \*

2 SECTION 6. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:  
3 § 9720. SENTENCES FOR ROBBERY OF MOTOR VEHICLES.

4 (A) MANDATORY SENTENCE.--NOTWITHSTANDING ANY OTHER PROVISION  
5 OF THIS TITLE OR OTHER STATUTE TO THE CONTRARY:

6 (1) ANY PERSON WHO IS CONVICTED IN ANY COURT OF THIS  
7 COMMONWEALTH OF AN OFFENSE UNDER 18 PA.C.S. § 3701 (RELATING  
8 TO ROBBERY) OR WHO IS CONVICTED OF AN ATTEMPT TO COMMIT THIS  
9 OFFENSE SHALL BE SENTENCED TO A MINIMUM SENTENCE OF AT LEAST  
10 FIVE YEARS OF TOTAL CONFINEMENT IF THE PROPERTY WHICH WAS  
11 TAKEN WAS A MOTOR VEHICLE OCCUPIED BY ANOTHER PERSON.

12 (2) ANY PERSON WHO IS CONVICTED IN ANY COURT OF THIS  
13 COMMONWEALTH OF AN OFFENSE UNDER 18 PA.C.S. § 3701 OR WHO IS  
14 CONVICTED OF AN ATTEMPT TO COMMIT THIS OFFENSE SHALL BE  
15 SENTENCED TO A MINIMUM SENTENCE OF AT LEAST FIVE YEARS OF  
16 TOTAL CONFINEMENT, IN ADDITION TO THE PENALTY IMPOSED UNDER  
17 PARAGRAPH (1), IF:

18 (I) THE PROPERTY WHICH WAS TAKEN WAS A MOTOR  
19 VEHICLE; AND

20 (II) DURING THE COURSE OF COMMITTING THE OFFENSE, AN  
21 OCCUPANT OF THE MOTOR VEHICLE WAS PHYSICALLY INJURED.

22 (B) PROOF AT SENTENCING.--PROVISIONS OF THIS SECTION SHALL  
23 NOT BE AN ELEMENT OF THE CRIME AND NOTICE OF THE PROVISIONS OF  
24 THIS SECTION TO THE DEFENDANT SHALL NOT BE REQUIRED PRIOR TO  
25 CONVICTION, BUT REASONABLE NOTICE OF THE COMMONWEALTH'S  
26 INTENTION TO PROCEED UNDER THIS SECTION SHALL BE PROVIDED AFTER  
27 CONVICTION AND BEFORE SENTENCING. THE APPLICABILITY OF THIS  
28 SECTION SHALL BE DETERMINED AT SENTENCING. THE COURT SHALL  
29 CONSIDER ANY EVIDENCE PRESENTED AT TRIAL AND SHALL AFFORD THE  
30 COMMONWEALTH AND THE DEFENDANT AN OPPORTUNITY TO PRESENT ANY

1 NECESSARY ADDITIONAL EVIDENCE AND SHALL DETERMINE, BY A  
2 PREPONDERANCE OF THE EVIDENCE, IF THIS SECTION IS APPLICABLE.

3 (C) AUTHORITY OF COURT IN SENTENCING.--THERE SHALL BE NO  
4 AUTHORITY IN ANY COURT TO IMPOSE ON AN OFFENDER TO WHICH THIS  
5 SECTION IS APPLICABLE ANY LESSER SENTENCE THAN PROVIDED FOR IN  
6 SUBSECTION (A) OR TO PLACE SUCH OFFENDER ON PROBATION OR TO  
7 SUSPEND SENTENCE. NOTHING IN THIS SECTION SHALL PREVENT THE  
8 SENTENCING COURT FROM IMPOSING A SENTENCE GREATER THAN THAT  
9 PROVIDED IN THIS SECTION. SENTENCING GUIDELINES PROMULGATED BY  
10 THE PENNSYLVANIA COMMISSION ON SENTENCING SHALL NOT SUPERSEDE  
11 THE MANDATORY SENTENCE PROVIDED IN THIS SECTION.

12 (D) APPEAL BY COMMONWEALTH.--IF A SENTENCING COURT REFUSES  
13 TO APPLY THIS SECTION WHERE APPLICABLE, THE COMMONWEALTH SHALL  
14 HAVE THE RIGHT TO APPELLATE REVIEW OF THE ACTION OF THE  
15 SENTENCING COURT. THE APPELLATE COURT SHALL VACATE THE SENTENCE  
16 AND REMAND THE CASE TO THE SENTENCING COURT FOR IMPOSITION OF A  
17 SENTENCE IN ACCORDANCE WITH THIS SECTION IF IT FINDS THAT THE  
18 SENTENCE WAS IMPOSED IN VIOLATION OF THIS SECTION.

19 SECTION 7. THE AMENDMENT OR ADDITION OF 42 PA.C.S. §§  
20 9711(D)(17), 9712(A) AND 9720 SHALL APPLY TO ACTIONS COMMENCED  
21 ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.

22 SECTION 8. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.