

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 185 Session of
1993

INTRODUCED BY MELIO, DeLUCA, PESCI, SCHEETZ, BATTISTO, KIRKLAND,
DALEY, OLASZ, KING AND DONATUCCI, FEBRUARY 3, 1993

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 21, 1993

AN ACT

1 ~~Amending Title 18 (Crimes and Offenses) of the Pennsylvania~~ <—
2 ~~Consolidated Statutes, ESTABLISHING AN ADDITIONAL CATEGORY OF~~ <—
3 ~~CRIMINAL HOMICIDE KNOWN AS HOMICIDE BY ABUSE; further~~
4 ~~providing for GRADING OF CRIMINAL ATTEMPT, SOLICITATION AND~~ <—
5 ~~CONSPIRACY AND FOR aggravated assault; defining the offense~~
6 ~~of concealment of child from law enforcement authorities;~~
7 ~~providing for the crime of auto piracy; further providing for~~
8 ~~the determination of antique slot machines, for purchase,~~
9 ~~consumption, possession or transportation of alcohol by~~
10 ~~certain persons and for possession of false identification to~~
11 ~~obtain alcohol; and providing penalties for trafficking drugs~~
12 ~~to minors; AND AND FOR COMPULSORY SCHOOL ATTENDANCE; FURTHER~~ <—
13 ~~PROVIDING FOR SENTENCES FOR OFFENSES COMMITTED WITH FIREARMS;~~ <—
14 ~~AND MAKING A REPEAL.~~
15 AMENDING TITLE 18 (CRIMES AND OFFENSES) OF THE PENNSYLVANIA <—
16 CONSOLIDATED STATUTES, FURTHER PROVIDING FOR PROHIBITED
17 OFFENSIVE WEAPONS AND FOR LIMITATION ON MUNICIPAL REGULATION
18 OF FIREARMS AND AMMUNITION; AND PROVIDING FOR SUMMARY <—
19 OFFENSES IN CONNECTION WITH AMUSEMENT RIDES.

20 THE GENERAL ASSEMBLY RECOGNIZES THAT AMUSEMENT PARKS HAVE A
21 LONG HISTORY OF SAFE OPERATION IN THIS COMMONWEALTH, AND THAT IT
22 IS IN THE BEST INTEREST OF THE CITIZENS OF THIS COMMONWEALTH TO
23 CONTINUE THE TRADITION OF SAFE OPERATION OF AMUSEMENT RIDES. IN
24 FURTHERANCE OF THIS INTEREST, THE GENERAL ASSEMBLY FINDS THAT
25 REASONABLE WARNINGS AND RESTRICTIONS ARE OFTEN NECESSARY TO

1 ENSURE THE SAFETY OF AMUSEMENT RIDE PASSENGERS, AND THAT
2 PASSENGERS MUST BEAR A PORTION OF THE RESPONSIBILITY FOR THEIR
3 OWN SAFETY BY FOLLOWING THESE WARNINGS AND RESTRICTIONS.

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

6 ~~Section 1. Section 2702 of Title 18 of the Pennsylvania~~ <—
7 ~~Consolidated Statutes is amended to read:~~

8 ~~SECTION 1. SECTIONS 905(A) AND 2502(B) OF TITLE 18 OF THE~~ <—
9 ~~PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:~~

10 ~~§ 905. GRADING OF CRIMINAL ATTEMPT, SOLICITATION AND~~
11 ~~CONSPIRACY.~~

12 ~~(A) GRADING. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,~~
13 ~~ATTEMPT, SOLICITATION AND CONSPIRACY ARE CRIMES OF THE SAME~~
14 ~~GRADE AND DEGREE AS THE MOST SERIOUS OFFENSE WHICH IS ATTEMPTED~~
15 ~~OR SOLICITED OR IS AN OBJECT OF THE CONSPIRACY. AN ATTEMPT,~~
16 ~~SOLICITATION OR CONSPIRACY TO COMMIT [MURDER OR] A FELONY OF THE~~
17 ~~FIRST DEGREE IS A FELONY OF THE SECOND DEGREE. AN ATTEMPT,~~
18 ~~SOLICITATION OR CONSPIRACY TO COMMIT MURDER OF THE FIRST DEGREE~~
19 ~~IS A FELONY OF THE FIRST DEGREE.~~

20 * * *

21 ~~§ 2502. MURDER.~~

22 * * *

23 ~~(B) MURDER OF THE SECOND DEGREE. A CRIMINAL HOMICIDE~~
24 ~~CONSTITUTES MURDER OF THE SECOND DEGREE WHEN IT IS COMMITTED~~
25 ~~WHILE DEFENDANT WAS ENGAGED AS A PRINCIPAL OR AN ACCOMPLICE IN~~
26 ~~THE PERPETRATION OF A FELONY OR WHEN IT IS DETERMINED TO BE~~
27 ~~HOMICIDE BY ABUSE UNDER SECTION 2507 (RELATING TO HOMICIDE BY~~
28 ~~ABUSE).~~

29 * * *

30 ~~SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:~~

~~§ 2507. HOMICIDE BY ABUSE.~~

~~(A) GENERAL RULE. A PERSON COMMITS HOMICIDE BY ABUSE WHEN THAT PERSON KILLS A CHILD 17 YEARS OF AGE OR YOUNGER, A DEVELOPMENTALLY DISABLED PERSON OR A DEPENDENT ADULT, AND THE DEATH RESULTS FROM ONE OR MORE INCIDENTS OF ABUSE OR THE DEATH IS THE RESULT OF A DEMONSTRATED PATTERN OF ABUSE.~~

~~(B) CLASSIFICATION. HOMICIDE BY ABUSE IS A MURDER OF THE SECOND DEGREE.~~

~~(C) DEFINITION. AS USED IN THIS SECTION, THE TERM "DEPENDENT ADULT" MEANS A PERSON WHO, BECAUSE OF PHYSICAL OR MENTAL DISABILITY OR BECAUSE OF EXTREME ADVANCED AGE, IS DEPENDENT UPON ANOTHER PERSON TO PROVIDE THE BASIC NECESSITIES OF LIFE.~~

~~SECTION 3. SECTION 2702 OF TITLE 18 IS AMENDED TO READ:~~

~~§ 2702. Aggravated assault.~~

~~(a) Offense defined. A person is guilty of aggravated assault if he:~~

~~(1) attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;~~

~~(2) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to [a police officer, firefighter, county adult probation or parole officer, county juvenile probation or parole officer or an agent of the Pennsylvania Board of Probation and Parole in the performance of duty or to] any of the officers, agents, employees or other persons enumerated in subsection (c) or to an employee of an agency, company or other entity engaged in public transportation, while in the performance of duty;~~

1 ~~(3) attempts to cause or intentionally or knowingly~~
2 ~~causes bodily injury to [a police officer, firefighter or~~
3 ~~county adult probation or parole officer, county juvenile~~
4 ~~probation or parole officer or an agent of the Pennsylvania~~
5 ~~Board of Probation and Parole] any of the officers, agents,~~
6 ~~employees or other persons enumerated in subsection (c), in~~
7 ~~the performance of duty;~~

8 ~~(4) attempts to cause or intentionally or knowingly~~
9 ~~causes bodily injury to another with a deadly weapon; [or]~~

10 ~~(5) attempts to cause or intentionally or knowingly~~
11 ~~causes bodily injury to a teaching staff member, school board~~
12 ~~member, other employee or student of any elementary or~~
13 ~~secondary publicly funded educational institution, any~~
14 ~~elementary or secondary private school licensed by the~~
15 ~~Department of Education or any elementary or secondary~~
16 ~~parochial school while acting in the scope of his or her~~
17 ~~employment or because of his or her employment relationship~~
18 ~~to the school[.]; or OR RELATIONSHIP AS A STUDENT OF THE~~
19 ~~SCHOOL.~~

20 ~~(6) attempts by physical menace to put any of the~~
21 ~~officers, agents, employees or other persons enumerated in~~
22 ~~subsection (c), while in the performance of duty, in fear of~~
23 ~~imminent serious bodily injury.~~

24 ~~(b) Grading.—Aggravated assault under subsection (a)(1) and~~
25 ~~(2) is a felony of the first degree. Aggravated assault under~~
26 ~~subsection (a)(3), (4) [and (5)], (5) and (6) is a felony of the~~
27 ~~second degree.~~

28 ~~(c) Officers, employees, etc. enumerated. The officers,~~
29 ~~agents, employees and other persons referred to in subsection~~
30 ~~(a) shall be as follows:~~

~~(1) A police officer.~~

~~(2) A firefighter.~~

~~(3) A county adult probation or parole officer.~~

~~(4) A county juvenile probation or parole officer.~~

~~(5) An agent of the Pennsylvania Board of Probation and Parole.~~

~~(6) A sheriff.~~

~~(7) A deputy sheriff.~~

~~(8) A liquor control enforcement agent.~~

~~(9) An officer or employee of a correctional institution.~~

~~(10) A judge of any court in the unified judicial system.~~

~~(11) The Attorney General.~~

~~(12) A deputy attorney general.~~

~~(13) A district attorney.~~

~~(14) An assistant district attorney.~~

~~(15) A Federal law enforcement official.~~

~~(16) A State law enforcement official.~~

~~(17) A local law enforcement official.~~

~~(18) Any person employed to assist or who assists any Federal, State or local law enforcement official.~~

~~(19) An employee of an institution, youth development center, camp or other facility for delinquent children operated under the direction or supervision of the court or other public authority and approved by the Department of Public Welfare.~~

~~(20) An officer or employee of a county domestic relations office.~~

~~(21) An emergency medical technician or emergency~~

~~medical technician paramedic, as defined in section 3 of the
act of July 3, 1985 (P.L.164, No.45), known as the Emergency
Medical Services Act.~~

~~Section 2 4. Title 18 is amended by adding sections to read:~~

~~§ 2911. Concealment of child from law enforcement authorities.~~

~~A person who knowingly or recklessly conceals a child from a
law enforcement officer who is investigating a report of a
missing child commits a misdemeanor of the second degree.~~

~~§ 3702. Auto piracy.~~

~~A person commits a felony of the first degree who, whether
armed or unarmed, by force or violence, by threat of force or
violence, or by putting a person in fear of death or bodily
harm, robs, steals or takes a motor vehicle from another person
in the presence of that person or any other person in lawful
possession of the motor vehicle.~~

~~Section 3 5. Sections 5513(c), 6308(b), 6310.3(b) and
6314(b), 6314(B) AND 9712(A) AND 6314(B) of Title 18 are amended
to read:~~

~~§ 5513. Gambling devices, gambling, etc.~~

~~* * *~~

~~(c) Antique slot machines.—~~

~~(1) A slot machine shall be established as an antique
slot machine if the defendant shows by a preponderance of the
evidence that it was manufactured [prior to 1941] more than
25 years prior to the current year AT LEAST 25 YEARS PRIOR TO
THE DATE OF THE VIOLATION OF SUBSECTION (A) and that it was
not used or attempted to be used for any unlawful purposes.~~

~~Notwithstanding subsection (b), no antique slot machine
seized from any defendant shall be destroyed or otherwise
altered until the defendant is given an opportunity to~~

1 ~~establish that the slot machine is an antique slot machine.~~

2 ~~After a final court determination that the slot machine is an~~
3 ~~antique slot machine, the slot machine shall be returned~~
4 ~~pursuant to the provisions of law providing for the return of~~
5 ~~property; otherwise, the slot machine shall be destroyed.~~

6 ~~(2) It is the purpose of this subsection to protect the~~
7 ~~collection and restoration of antique slot machines not~~
8 ~~presently utilized for gambling purposes.~~

9 ~~§ 6308. Purchase, consumption, possession or transportation of~~
10 ~~liquor or malt or brewed beverages.~~

11 ~~* * *~~

12 ~~(b) [Penalty] Minimum penalty@. In addition to the penalty~~
13 ~~imposed pursuant to section 6310.4 (relating to restriction of~~
14 ~~operating privileges), a person convicted of violating~~
15 ~~subsection (a) may] shall be sentenced to pay a fine of not more~~
16 ~~than \$500 [for the second and each subsequent violation]. There~~
17 ~~shall be no authority in any court to impose on an offender any~~
18 ~~lesser sentence than the minimum sentence mandated by this~~
19 ~~subsection. No court shall have the authority to suspend any~~
20 ~~sentence as defined in this section.~~

21 ~~* * *~~

22 ~~§ 6310.3. Carrying a false identification card.~~

23 ~~* * *~~

24 ~~(b) Minimum penalty. In addition to any other penalty~~
25 ~~imposed pursuant to section 6310.4 (relating to restriction of~~
26 ~~operating privileges) or any other statute, a person who is~~
27 ~~convicted of violating subsection (a) shall be sentenced to pay~~
28 ~~a fine of not more than \$500 [for the second and subsequent~~
29 ~~violations]. No court shall have the authority to suspend any~~
30 ~~sentence as defined in this section.~~

1 * * *

2 ~~§ 6314. Sentencing and penalties for trafficking drugs to~~
3 ~~minors.~~

4 * * *

5 ~~(b) Additional penalties. In addition to the mandatory~~
6 ~~minimum sentence set forth in subsection (a), the person shall~~
7 ~~be sentenced to an additional minimum sentence of at least two~~
8 ~~years total confinement, notwithstanding any other provision of~~
9 ~~this title or other statute to the contrary, if the person did~~
10 ~~any of the following:~~

11 ~~(1) Committed the offense with the intent to promote the~~
12 ~~habitual use of the controlled substance.~~

13 ~~(2) Intended to engage the minor in the trafficking,~~
14 ~~transportation, delivery, manufacturing, sale or conveyance.~~

15 ~~(3) Committed the offense within 1,000 feet of the real~~
16 ~~property on which is located a public, private or parochial~~
17 ~~school or a college or university.~~

18 ~~(4) Committed the offense on a school bus.~~

19 ~~(5) Committed the offense within 1,000 100 feet of a~~
20 ~~school bus stop ON THOSE DAYS AND AT THOSE TIMES AS SCHOOL~~ <—
21 ~~STUDENTS ARE AWAITING TRANSPORTATION OR ARE BEING DISCHARGED~~
22 ~~AT THESE LOCATIONS.~~

23 ~~(6) Committed the offense within 1,000 100 feet of the~~
24 ~~real property of a public playground.~~

25 * * *

26 ~~SECTION 6. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:~~ <—

27 ~~§ 6315. COMPULSORY SCHOOL ATTENDANCE.~~

28 ~~(A) PENALTY FOR NONCOMPLIANCE.~~

29 ~~(1) A PARENT, GUARDIAN OR PERSON IN PARENTAL RELATION~~
30 ~~HAVING CONTROL OR CHARGE OF A CHILD OR CHILDREN OF COMPULSORY~~

~~SCHOOL AGE WHO FAILS TO COMPLY WITH THE PROVISIONS OF THE
PUBLIC SCHOOL CODE REGARDING COMPULSORY ATTENDANCE COMMITS A
SUMMARY OFFENSE AND SHALL BE SENTENCED TO PAY, FOR THE
BENEFIT OF THE SCHOOL DISTRICT IN WHICH THE OFFENDING PERSON
RESIDES, A FINE OF NOT MORE THAN \$300 FOR THE FIRST OFFENSE
AND NOT MORE THAN \$300 FOR EACH SUCCEEDING OFFENSE OR TO
COMPLETE A PARENTING EDUCATION PROGRAM OFFERED AND OPERATED
BY A LOCAL SCHOOL DISTRICT, MEDICAL INSTITUTION OR OTHER
STATE APPROVED AGENCY, OR BOTH.~~

~~(2) IN THE DEFAULT OF THE PAYMENT OF A FINE OR
COMPLETION OF THE PARENTING PROGRAM UNDER PARAGRAPH (1), THE
PERSON SO OFFENDING SHALL BE SENTENCED TO THE COUNTY JAIL FOR
A PERIOD OF NOT MORE THAN FIVE DAYS.~~

~~(B) APPEAL. A PERSON SENTENCED TO PAY A FINE MAY, IN
ACCORDANCE WITH RULE 86 OF THE PENNSYLVANIA RULES OF CRIMINAL
PROCEDURE, APPEAL TO THE COURT OF COMMON PLEAS OF THE PROPER
COUNTY, UPON ENTERING INTO A RECOGNIZANCE WITH ONE OR MORE
PROPER SURETIES IN DOUBLE THE AMOUNT OF PENALTY AND COSTS.~~

~~(C) NOTICE. BEFORE ANY PROCEEDINGS ARE INSTITUTED AGAINST A
PARENT, GUARDIAN OR PERSON IN PARENTAL RELATION FOR FAILURE TO
COMPLY WITH THE PROVISIONS OF THE PUBLIC SCHOOL CODE OR THIS
SECTION, THE DISTRICT SUPERINTENDENT, ATTENDANCE OFFICER OR
SECRETARY OF THE BOARD OF SCHOOL DIRECTORS SHALL GIVE THE
OFFENDING PERSON THREE DAYS' WRITTEN NOTICE OF THE VIOLATION.
IF, AFTER THE NOTICE HAS BEEN GIVEN, THE PROVISIONS OF THIS
SECTION REGARDING COMPULSORY ATTENDANCE ARE AGAIN VIOLATED BY
THE PERSONS SO NOTIFIED AT ANY TIME DURING THE TERM OF
COMPULSORY ATTENDANCE, THAT PERSON SO AGAIN OFFENDING SHALL BE
LIABLE UNDER THIS SECTION WITHOUT FURTHER NOTICE.~~

~~(D) REASONABLE STEPS TO INSURE ATTENDANCE. AFTER THE FIRST~~

1 ~~OFFENSE, FOR A SUCCEEDING OFFENSE, A PARENT, GUARDIAN OR PERSON~~
2 ~~IN PARENTAL RELATION MUST APPEAR AT A HEARING ESTABLISHED BY THE~~
3 ~~DISTRICT JUSTICE. IF THE PARENT, GUARDIAN OR PERSON IN PARENTAL~~
4 ~~RELATION CHARGED WITH A SUMMARY OFFENSE UNDER SUBSECTION (A)~~
5 ~~SHOWS THAT HE TOOK EVERY REASONABLE STEP TO INSURE ATTENDANCE OF~~
6 ~~THE CHILD AT SCHOOL, HE SHALL NOT BE CONVICTED OF THE SUMMARY~~
7 ~~OFFENSE.~~

8 ~~(E) HABITUAL TRUANCY.~~

9 ~~(1) IF THE PARENT, GUARDIAN OR PERSON IN PARENTAL~~
10 ~~RELATION IS NOT CONVICTED OF A SUMMARY OFFENSE BECAUSE HE~~
11 ~~TOOK EVERY REASONABLE STEP TO INSURE ATTENDANCE OF THE CHILD~~
12 ~~AT SCHOOL, THE CHILD OF COMPULSORY SCHOOL AGE WHO FAILS TO~~
13 ~~COMPLY WITH THE PUBLIC SCHOOL CODE AND THIS SECTION REGARDING~~
14 ~~COMPULSORY ATTENDANCE OR WHO IS HABITUALLY TRUANT FROM SCHOOL~~
15 ~~WITHOUT JUSTIFICATION COMMITS A SUMMARY OFFENSE AND SHALL BE~~
16 ~~SENTENCED TO PAY, FOR THE BENEFIT OF THE SCHOOL DISTRICT IN~~
17 ~~WHICH THE OFFENDING CHILD RESIDES, A FINE OF NOT MORE THAN~~
18 ~~\$300 FOR EACH OFFENSE OR SHALL BE ASSIGNED TO AN ADJUDICATION~~
19 ~~ALTERNATIVE PROGRAM UNDER 42 PA.C.S. § 1520 (RELATING TO~~
20 ~~ADJUDICATION ALTERNATIVE PROGRAM) WHICH HAS BEEN APPROVED BY~~
21 ~~THE DISTRICT ATTORNEY AND THE PRESIDENT JUDGE PURSUANT TO THE~~
22 ~~RULES OF CRIMINAL PROCEDURE REGARDING ACCELERATED~~
23 ~~REHABILITATIVE DISPOSITION. THE CHILD SHALL APPEAR AT THE~~
24 ~~HEARING ESTABLISHED BY THE DISTRICT JUSTICE, ACCOMPANIED BY~~
25 ~~HIS PARENT, GUARDIAN OR PERSON IN PARENTAL RELATION.~~

26 ~~(2) IF THE CHILD FAILS TO PAY THE FINE UNDER PARAGRAPH~~
27 ~~(1) OR TO COMPLY WITH THE ADJUDICATION ALTERNATIVE PROGRAM,~~
28 ~~THE DISTRICT JUSTICE MAY PROCEED ACCORDING TO SECTION 1338 OF~~
29 ~~THE PUBLIC SCHOOL CODE.~~

30 ~~(F) AUTHORITY OF DISTRICT JUSTICE. WHERE AUTHORIZED BY THE~~

~~COURT OF COMMON PLEAS, THE DISTRICT JUSTICE SHALL HAVE AUTHORITY TO COMPEL SERVICE BY SHERIFF, CONSTABLE OR POLICE AND SECURE ATTENDANCE DURING THE WEEK, DAY AND TIMES THAT THE COURT IS IN SESSION.~~

~~(G) COURT OF COMMON PLEAS. THE COURT OF COMMON PLEAS MAY ELECT TO HEAR DIRECTLY CASES BROUGHT UNDER THIS SECTION.~~

~~(H) DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:~~

~~"HABITUALLY TRUANT." ABSENT FOR MORE THAN THREE SCHOOL DAYS OR THEIR EQUIVALENT FOLLOWING THE FIRST NOTICE OF TRUANCY GIVEN UNDER SECTION 1354 OF THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949. A PERSON MAY BE HABITUALLY TRUANT AFTER THAT NOTICE.~~

~~"OFFENSE." EACH CITATION WHICH GOES BEFORE A DISTRICT JUSTICE OR COURT OF COMMON PLEAS.~~

~~"PUBLIC SCHOOL CODE." THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949.~~

~~SECTION 7. SECTION 9712(A) OF TITLE 18 IS AMENDED TO READ:~~
~~§ 9712. SENTENCES FOR OFFENSES COMMITTED WITH FIREARMS.~~

~~(A) MANDATORY SENTENCE. ANY PERSON WHO IS CONVICTED IN ANY COURT OF THIS COMMONWEALTH OF MURDER OF THE THIRD DEGREE, VOLUNTARY MANSLAUGHTER, RAPE, INVOLUNTARY DEVIATE SEXUAL INTERCOURSE, ROBBERY AS DEFINED IN 18 PA.C.S. § 3701(A)(1)(I), (II) OR (III) (RELATING TO ROBBERY), AGGRAVATED ASSAULT AS DEFINED IN 18 PA.C.S. § 2702(A)(1) (RELATING TO AGGRAVATED ASSAULT) OR KIDNAPPING, OR WHO IS CONVICTED OF ATTEMPT TO COMMIT ANY OF THESE CRIMES, INCLUDING AN ATTEMPT TO COMMIT MURDER OF THE FIRST DEGREE, SHALL, IF THE PERSON VISIBLY POSSESSED A FIREARM DURING THE COMMISSION OF THE OFFENSE, BE SENTENCED TO A~~

1 ~~MINIMUM SENTENCE OF AT LEAST FIVE YEARS OF TOTAL CONFINEMENT~~
2 ~~NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE OR OTHER~~
3 ~~STATUTE TO THE CONTRARY.~~

4 ~~* * *~~

5 ~~SECTION 8. SECTION 1333 OF THE ACT OF MARCH 10, 1949~~ <—
6 ~~(P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949, IS~~
7 ~~REPEALED.~~

8 ~~Section 4 6 9. The amendment of 18 Pa.C.S. §§ 6308(b) and~~
9 ~~6310.3(b) shall apply to sentences imposed on or after the~~
10 ~~effective date of this act.~~

11 ~~Section 5 7 10. This act shall take effect in 60 days.~~

12 SECTION 1. SECTIONS 908 AND 6120 OF TITLE 18 OF THE <—
13 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

14 § 908. PROHIBITED OFFENSIVE WEAPONS.

15 (A) OFFENSE DEFINED.--A PERSON COMMITS A MISDEMEANOR OF THE
16 FIRST DEGREE IF, EXCEPT AS AUTHORIZED BY LAW, HE MAKES REPAIRS,
17 SELLS, OR OTHERWISE DEALS IN, USES, OR POSSESSES ANY OFFENSIVE
18 WEAPON.

19 (B) EXCEPTIONS.--

20 (1) IT IS A DEFENSE UNDER THIS SECTION FOR THE DEFENDANT
21 TO PROVE BY A PREPONDERANCE OF EVIDENCE THAT HE POSSESSED OR
22 DEALT WITH THE WEAPON SOLELY AS A CURIO OR IN A DRAMATIC
23 PERFORMANCE, OR THAT, WITH THE EXCEPTION OF A BOMB, GRENADE
24 OR INCENDIARY DEVICE, HE COMPLIED WITH THE NATIONAL FIREARMS
25 ACT (26 U.S.C. § 5801 ET SEQ.), OR THAT HE POSSESSED IT
26 BRIEFLY IN CONSEQUENCE OF HAVING FOUND IT OR TAKEN IT FROM AN
27 AGGRESSOR, OR UNDER CIRCUMSTANCES SIMILARLY NEGATIVING ANY
28 INTENT OR LIKELIHOOD THAT THE WEAPON WOULD BE USED
29 UNLAWFULLY.

30 (2) THIS SECTION DOES NOT APPLY TO POLICE FORENSIC

FIREARMS EXPERTS OR POLICE FORENSIC FIREARMS LABORATORIES.
ALSO EXEMPT FROM THIS SECTION ARE FORENSIC FIREARMS EXPERTS
OR FORENSIC FIREARMS LABORATORIES OPERATING IN THE ORDINARY
COURSE OF BUSINESS AND ENGAGED IN LAWFUL OPERATION WHO NOTIFY
IN WRITING, ON AN ANNUAL BASIS, THE CHIEF OR HEAD OF ANY
POLICE FORCE OR POLICE DEPARTMENT OF A CITY, AND, ELSEWHERE,
THE SHERIFF OF A COUNTY IN WHICH THEY ARE LOCATED, OF THE
POSSESSION, TYPE AND USE OF OFFENSIVE WEAPONS.

(3) THIS SECTION SHALL NOT APPLY TO ANY PERSON WHO
MAKES, REPAIRS, SELLS OR OTHERWISE DEALS IN, USES OR
POSSESSES ANY FIREARM FOR PURPOSES NOT PROHIBITED BY THE LAWS
OF THIS COMMONWEALTH.

(C) DEFINITION.--[AS USED IN THIS SECTION "OFFENSIVE WEAPON"
MEANS ANY] AS USED IN THIS SECTION, THE FOLLOWING WORDS AND
PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
SUBSECTION:

"FIREARM." ANY WEAPON WHICH IS DESIGNED TO OR MAY READILY BE
CONVERTED TO EXPEL ANY PROJECTILE BY THE ACTION OF AN EXPLOSIVE;
OR THE FRAME OR RECEIVER OF ANY SUCH WEAPON.

"OFFENSIVE WEAPONS." ANY BOMB, GRENADE, MACHINE GUN, SAWED-
OFF SHOTGUN WITH A BARREL LESS THAN 18 INCHES, FIREARM SPECIALLY
MADE OR SPECIALLY ADAPTED FOR CONCEALMENT OR SILENT DISCHARGE,
ANY BLACKJACK, SANDBAG, METAL KNUCKLES, DAGGER, KNIFE, RAZOR OR
CUTTING INSTRUMENT, THE BLADE OF WHICH IS EXPOSED IN AN
AUTOMATIC WAY BY SWITCH, PUSH-BUTTON, SPRING MECHANISM, OR
OTHERWISE, OR OTHER IMPLEMENT FOR THE INFLECTION OF SERIOUS
BODILY INJURY WHICH SERVES NO COMMON LAWFUL PURPOSE.

(D) EXEMPTIONS.--THE USE AND POSSESSION OF BLACKJACKS BY THE
FOLLOWING PERSONS IN THE COURSE OF THEIR DUTIES ARE EXEMPT FROM
THIS SECTION:

1 (1) POLICE OFFICERS, AS DEFINED BY AND WHO MEET THE
2 REQUIREMENTS OF THE ACT OF JUNE 18, 1974 (P.L.359, NO.120),
3 REFERRED TO AS THE MUNICIPAL POLICE EDUCATION AND TRAINING
4 LAW.

5 (2) POLICE OFFICERS OF FIRST CLASS CITIES WHO HAVE
6 SUCCESSFULLY COMPLETED TRAINING WHICH IS SUBSTANTIALLY
7 EQUIVALENT TO THE PROGRAM UNDER THE MUNICIPAL POLICE
8 EDUCATION AND TRAINING LAW.

9 (3) PENNSYLVANIA STATE POLICE OFFICERS.

10 (4) SHERIFFS AND DEPUTY SHERIFFS OF THE VARIOUS COUNTIES
11 WHO HAVE SATISFACTORILY MET THE REQUIREMENTS OF THE MUNICIPAL
12 POLICE EDUCATION AND TRAINING LAW.

13 (5) POLICE OFFICERS EMPLOYED BY THE COMMONWEALTH WHO
14 HAVE SATISFACTORILY MET THE REQUIREMENTS OF THE MUNICIPAL
15 POLICE EDUCATION AND TRAINING LAW.

16 (6) DEPUTY SHERIFFS WITH ADEQUATE TRAINING AS DETERMINED
17 BY THE PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY.

18 (7) LIQUOR CONTROL BOARD AGENTS WHO HAVE SATISFACTORILY
19 MET THE REQUIREMENTS OF THE MUNICIPAL POLICE EDUCATION AND
20 TRAINING LAW.

21 § 6120. LIMITATION ON MUNICIPAL REGULATION OF FIREARMS AND
22 AMMUNITION.

23 (A) GENERAL RULE.--NO COUNTY, MUNICIPALITY OR TOWNSHIP MAY
24 IN ANY MANNER REGULATE THE [LAWFUL] OWNERSHIP, POSSESSION, <—
25 TRANSFER OR TRANSPORTATION OF FIREARMS, AMMUNITION OR AMMUNITION
26 COMPONENTS [WHEN CARRIED OR TRANSPORTED FOR PURPOSES NOT <—
27 PROHIBITED BY THE LAWS OF THIS COMMONWEALTH.], EXCEPT AS <—
28 AUTHORIZED BY THIS TITLE.

29 (B) DEFINITION.--FOR THE PURPOSES OF THIS SECTION, THE TERM
30 "FIREARMS" HAS THE MEANING GIVEN IN SECTION 5515 (RELATING TO

1 PROHIBITING OF PARAMILITARY TRAINING) BUT SHALL NOT INCLUDE "AIR
2 RIFLES" AS DEFINED IN SECTION 6304 (RELATING TO SALE AND USE OF
3 AIR RIFLES).

4 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ: <—

5 § 7108. AMUSEMENT RIDES.

6 (A) OFFENSE DEFINED.--AN AMUSEMENT RIDE PASSENGER SHALL NOT
7 BEHAVE OR ACT IN ANY MANNER THAT MAY CAUSE INJURY OR CONTRIBUTE
8 TO INJURY TO HIMSELF OR OTHER AMUSEMENT RIDE PASSENGERS,
9 INCLUDING ANY OF THE FOLLOWING:

10 (1) BOARDING OR DISMOUNTING FROM AN AMUSEMENT RIDE
11 EXCEPT AT A DESIGNATED AREA IF ONE IS PROVIDED.

12 (2) THROWING OR EXPELLING ANY OBJECT OR MATTER FROM AN
13 AMUSEMENT RIDE.

14 (3) ENGAGING IN ANY ACT OR ACTIVITY BY HIS FROLICKING OR
15 HORSEPLAY WHICH MAY TEND TO INJURE OTHERS.

16 (4) WHILE USING AMUSEMENT RIDES THAT REQUIRE STEERING OR
17 CONTROL OF HIMSELF OR A CAR DEVICE, FAILING TO MAINTAIN
18 REASONABLE CONTROL OF HIS SPEED AND COURSE AT ALL TIMES.

19 (5) STEERING THE AMUSEMENT RIDE IN SUCH A MANNER AS TO
20 INTENTIONALLY CAUSE SERIOUS BODILY HARM TO ANOTHER PERSON.

21 (6) DISCONNECTING, DISABLING OR ATTEMPTING TO DISCONNECT
22 OR DISABLE ANY SAFETY DEVICE, SEAT BELT, HARNESS OR OTHER
23 RESTRAINING DEVICE BEFORE, DURING OR AFTER MOVEMENT OF THE
24 AMUSEMENT RIDE HAS STARTED EXCEPT AT THE EXPRESS INSTRUCTION
25 OF THE OPERATOR.

26 (7) DISEMBARKING OR ATTEMPTING TO DISEMBARK FROM ANY
27 AMUSEMENT RIDE BEFORE, DURING OR AFTER MOVEMENT OF A RIDE HAS
28 STARTED EXCEPT UPON THE EXPRESS INSTRUCTION OF THE OPERATOR.

29 (8) BOARDING OR ATTEMPTING TO BOARD ANY AMUSEMENT RIDE
30 IF HE IS UNDER THE INFLUENCE OF ALCOHOL OR ANY CONTROLLED

1 SUBSTANCE AS DEFINED IN THE ACT OF APRIL 14, 1972 (P.L.233,
2 NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
3 COSMETIC ACT, WHICH IMPACTS HIS ABILITY TO SAFELY USE THE
4 RIDE AND ABIDE BY THE POSTED AND ORAL INSTRUCTIONS. THE
5 OPERATOR MAY TAKE REASONABLE ACTION TO PREVENT AN AMUSEMENT
6 RIDE PASSENGER WHO IS PERCEPTIBLY OR APPARENTLY UNDER THE
7 INFLUENCE OF DRUGS OR ALCOHOL FROM RIDING ON AN AMUSEMENT
8 RIDE. AN OPERATOR WHO PREVENTS IN A REASONABLE MANNER AN
9 AMUSEMENT RIDE PASSENGER FROM BOARDING A RIDE IN ACCORDANCE
10 WITH THIS PARAGRAPH SHALL NOT BE CRIMINALLY OR CIVILLY LIABLE
11 IN ANY MANNER IF THE OPERATOR HAS A REASONABLE BASIS FOR
12 BELIEVING THAT THE PASSENGER IS UNDER THE INFLUENCE OF DRUGS
13 OR ALCOHOL.

14 (9) ALTERING OR ENHANCING THE INTENDED SPEED, COURSE OR
15 DIRECTION OF AN AMUSEMENT RIDE BY USING ANY UNAUTHORIZED
16 DEVICE, INSTRUMENT OR METHOD.

17 (10) IF THE AMUSEMENT RIDE PASSENGER IS 13 YEARS OF AGE
18 OR OLDER, BOARDING AN AMUSEMENT RIDE UNLESS HE HAS SUFFICIENT
19 KNOWLEDGE AND ABILITY TO USE THE RIDE. IF THE PASSENGER DOES
20 NOT HAVE SUCH KNOWLEDGE OR ABILITY, IT IS HIS RESPONSIBILITY
21 TO ASK FOR AND RECEIVE WRITTEN OR ORAL INSTRUCTIONS PRIOR TO
22 USING THE RIDE OR DEVICE.

23 (11) IF THE AMUSEMENT RIDE PASSENGER IS 13 YEARS OF AGE
24 OR OLDER, EMBARKING ON AN AMUSEMENT RIDE WITHOUT AUTHORITY OR
25 FAILING TO PAY APPROPRIATE CONSIDERATION FOR ITS USE.

26 (12) ATTEMPTING TO GAIN ACCESS TO CONTROLS OF AN
27 AMUSEMENT RIDE DESIGNED SOLELY TO BE OPERATED BY EMPLOYEES OF
28 AMUSEMENT PARKS.

29 (B) PENALTY.--AN AMUSEMENT RIDE PASSENGER WHO VIOLATES
30 SUBSECTION (A) COMMITS A SUMMARY OFFENSE AND SHALL, UPON

1 CONVICTION, BE SENTENCED TO PAY A FINE OF NOT MORE THAN \$500.

2 (C) NOTICE.--THE OWNER OF AN AMUSEMENT RIDE SHALL
3 PROMINENTLY DISPLAY APPROPRIATE WARNINGS AND DIRECTIONS IN A
4 PUBLIC AND CONSPICUOUS PLACE ON OR NEAR THE RIDE. THE WARNINGS
5 SHALL PROMINENTLY DISCLOSE THE PENALTIES IMPOSED IF AN AMUSEMENT
6 RIDE PASSENGER VIOLATES THIS SECTION.

7 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
8 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
9 SUBSECTION:

10 "AMUSEMENT RIDE." ANY DEVICE THAT CARRIES OR CONVEYS
11 PASSENGERS ALONG, AROUND OR OVER A FIXED OR RESTRICTED ROUTE OR
12 WITHIN A DEFINED AREA FOR THE PURPOSE OF GIVING ITS PASSENGERS
13 AMUSEMENT, PLEASURE, THRILLS OR EXCITEMENT.

14 "AMUSEMENT RIDE PASSENGER." ANY PERSON, OTHER THAN AN OWNER
15 OR AN EMPLOYEE OR AGENT OF AN OWNER, WHO IS CONVEYED UPON, IS
16 AWAITING ENTRANCE TO OR IS EXITING AN AMUSEMENT RIDE.

17 "OWNER." A PERSON WHO OWNS AN AMUSEMENT RIDE. THE TERM
18 INCLUDES THE COMMONWEALTH AND ITS POLITICAL SUBDIVISIONS.

19 SECTION 2 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.

<—