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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 543      Session of  
1997

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INTRODUCED BY PICCOLA, BRIGHTBILL, ULIANA, JUBELIRER, MELLOW,  
AFFLERBACH, GERLACH, HELFRICK, O'PAKE, ROBBINS, MADIGAN,  
WOZNIAK, THOMPSON, DELP AND SALVATORE, FEBRUARY 25, 1997

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
MARCH 31, 1998

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, FURTHER PROVIDING FOR NEGLECT OF CARE- <—  
3 DEPENDENT PEOPLE AND FOR ARSON AND RELATED OFFENSES; AND  
4 providing for ~~the crime of~~ municipal housing code avoidance <—  
5 AND FOR CONTROL OF ALARM DEVICES AND AUTOMATIC DIALING <—  
6 DEVICES.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 ~~Section 1. Title 18 of the Pennsylvania Consolidated~~ <—  
10 ~~Statutes is amended by adding a section to read:~~

11 ~~SECTION 1. SECTION 3301(D), (H) AND (I) OF TITLE 18 OF THE~~ <—  
12 ~~PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED AND THE SECTION~~  
13 ~~IS AMENDED BY ADDING A SUBSECTION TO READ:~~

14 SECTION 1. SECTION 2713(D)(2) OF TITLE 18 OF THE <—  
15 PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO READ:

16 § 2713. NEGLECT OF CARE-DEPENDENT PERSON.

17 \* \* \*

18 (D) ENFORCEMENT.--

1 \* \* \*

2 (2) IN ADDITION TO THE AUTHORITY CONFERRED UPON THE  
3 ATTORNEY GENERAL UNDER THE ACT OF OCTOBER 15, 1980 (P.L.950,  
4 NO.164), KNOWN AS THE COMMONWEALTH ATTORNEYS ACT, THE  
5 ATTORNEY GENERAL SHALL HAVE THE AUTHORITY TO INVESTIGATE AND  
6 INSTITUTE CRIMINAL PROCEEDINGS FOR ANY VIOLATION OF THIS  
7 SECTION [OR ANY SERIES OF SUCH VIOLATIONS INVOLVING MORE THAN  
8 ONE COUNTY OF THIS COMMONWEALTH OR INVOLVING ANY COUNTY OF  
9 THIS COMMONWEALTH AND ANOTHER STATE]. A PERSON CHARGED WITH A  
10 VIOLATION OF THIS SECTION BY THE ATTORNEY GENERAL SHALL NOT  
11 HAVE STANDING TO CHALLENGE THE AUTHORITY OF THE ATTORNEY  
12 GENERAL TO INVESTIGATE OR PROSECUTE THE CASE, AND, IF ANY  
13 SUCH CHALLENGE IS MADE, THE CHALLENGE SHALL BE DISMISSED AND  
14 NO RELIEF SHALL BE AVAILABLE IN THE COURTS OF THIS  
15 COMMONWEALTH TO THE PERSON MAKING THE CHALLENGE.

16 \* \* \*

17 SECTION 2. SECTION 3301(D), (H) AND (I) OF TITLE 18 ARE  
18 AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO  
19 READ:

20 § 3301. ARSON AND RELATED OFFENSES.

21 \* \* \*

22 (D) RECKLESS BURNING OR EXPLODING.--A PERSON COMMITS A  
23 FELONY OF THE THIRD DEGREE IF HE INTENTIONALLY STARTS A FIRE OR  
24 CAUSES AN EXPLOSION, OR IF HE AIDS, COUNSELS, PAYS OR AGREES TO  
25 PAY ANOTHER TO CAUSE A FIRE OR EXPLOSION, WHETHER ON HIS OWN  
26 PROPERTY OR ON THAT OF ANOTHER, AND THEREBY RECKLESSLY:

27 (1) PLACES AN UNINHABITED BUILDING OR UNOCCUPIED  
28 STRUCTURE OF ANOTHER IN DANGER OF DAMAGE OR DESTRUCTION; OR

29 (2) [PLACES ANY PERSONAL PROPERTY OF ANOTHER HAVING A  
30 VALUE OF \$5,000 OR MORE] PLACES ANY PERSONAL PROPERTY OF

1 ANOTHER HAVING A VALUE THAT EXCEEDS \$5,000, OR IF THE  
2 PROPERTY IS AN AUTOMOBILE, AIRPLANE, MOTORCYCLE, MOTORBOAT OR  
3 OTHER MOTOR-PROPELLED VEHICLE IN DANGER OF DAMAGE OR  
4 DESTRUCTION.

5 (D.1) DANGEROUS BURNING.--A PERSON COMMITS A SUMMARY OFFENSE  
6 IF HE INTENTIONALLY OR RECKLESSLY STARTS A FIRE TO ENDANGER ANY  
7 PERSON OR PROPERTY OF ANOTHER, WHETHER OR NOT ANY DAMAGE TO  
8 PERSON OR PROPERTY ACTUALLY OCCURS.

9 \* \* \*

10 (H) LIMITATIONS ON LIABILITY.--THE PROVISIONS OF SUBSECTIONS  
11 (A), (B), (C), (D), (D.1) AND (E) SHALL NOT BE CONSTRUED TO  
12 ESTABLISH CRIMINAL LIABILITY UPON ANY VOLUNTEER OR PAID  
13 FIREFIGHTER OR VOLUNTEER OR PAID FIREFIGHTING COMPANY OR  
14 ASSOCIATION IF SAID COMPANY OR ASSOCIATION ENDANGERS A  
15 PARTICIPATING FIREFIGHTER OR REAL OR PERSONAL PROPERTY IN THE  
16 COURSE OF AN APPROVED, CONTROLLED FIRE TRAINING PROGRAM OR FIRE  
17 EVOLUTION, PROVIDED THAT SAID COMPANY OR ASSOCIATION HAS  
18 COMPLIED WITH THE FOLLOWING:

19 (1) A SWORN STATEMENT FROM THE OWNER OF ANY REAL OR  
20 PERSONAL PROPERTY INVOLVED IN SUCH PROGRAM OR EVOLUTION THAT  
21 THERE IS NO FIRE INSURANCE POLICY OR NO LIEN OR ENCUMBRANCE  
22 EXISTS WHICH APPLIES TO SUCH REAL OR PERSONAL PROPERTY;

23 (2) APPROVAL OR PERMITS FROM THE APPROPRIATE LOCAL  
24 GOVERNMENT OR STATE OFFICIALS, IF NECESSARY, TO CONDUCT SUCH  
25 PROGRAM OR EXERCISE HAVE BEEN RECEIVED;

26 (3) PRECAUTIONS HAVE BEEN TAKEN SO THAT THE PROGRAM OR  
27 EVOLUTION DOES NOT AFFECT ANY OTHER PERSONS OR REAL OR  
28 PERSONAL PROPERTY; AND

29 (4) PARTICIPATION OF FIREFIGHTERS IN THE PROGRAM OR  
30 EXERCISE IF VOLUNTARY.

1 (I) DEFENSES.--IT IS A DEFENSE TO PROSECUTION UNDER  
2 SUBSECTIONS (C) [AND (D)], (D) AND (D.1) WHERE A PERSON IS  
3 CHARGED WITH DESTROYING A VEHICLE, LAWFUL TITLE TO WHICH IS  
4 VESTED IN HIM, IF THE VEHICLE IS FREE OF ANY ENCUMBRANCES, THERE  
5 IS NO INSURANCE COVERING LOSS BY FIRE OR EXPLOSION OR BOTH ON  
6 THE VEHICLE AND THE PERSON DELIVERS TO THE NEAREST STATE POLICE  
7 STATION AT LEAST 48 HOURS IN ADVANCE OF THE PLANNED DESTRUCTION  
8 A WRITTEN SWORN STATEMENT CERTIFYING THAT THE PERSON IS THE  
9 LAWFUL TITLEHOLDER, THAT THE VEHICLE IS FREE OF ANY ENCUMBRANCES  
10 AND THAT THERE IS NO INSURANCE COVERING LOSS BY FIRE OR  
11 EXPLOSION OR BOTH ON THE VEHICLE.

12 \* \* \*

13 SECTION ~~2~~ 3. TITLE 18 IS AMENDED BY ADDING ~~A SECTION~~ <—

14 SECTIONS TO READ: <—

15 ~~§ 7509~~ 7510. Municipal housing code avoidance. <—

16 (a) Offense defined.--A person commits the crime of  
17 municipal housing code avoidance if:

18 (1) the person has been convicted of a fourth or  
19 subsequent violation of the same subsection of a municipal  
20 housing code for the same property;

21 (2) the violation has been continual and uncorrected;

22 (3) the violation poses a threat to the public's health,  
23 safety or property; and

24 (4) no reasonable attempt has been made by the person to  
25 correct the violation.

26 (b) Grading.--Municipal housing code avoidance shall  
27 constitute a:

28 (1) Misdemeanor of the second degree when the offense is  
29 a fourth conviction of a violation of the same subsection  
30 under a municipal housing code relating to the same property.

1           (2) Misdemeanor of the first degree when the offense is  
2           based on five or more convictions of violations of the same  
3           subsection under a municipal housing code relating to the  
4           same property.

5           (c) Definition.--As used in this section, the term  
6           "municipal housing code" means any municipality's building,  
7           housing or property maintenance code or ordinance.

8           § 7511. CONTROL OF ALARM DEVICES AND AUTOMATIC DIALING DEVICES.     <—

9           (A) AUTOMATIC DIALING DEVICES.--A PERSON MAY NOT ATTACH OR  
10          USE AN AUTOMATIC DIALING DEVICE WITHOUT DOING ALL OF THE  
11          FOLLOWING:

12           (1) PROVIDING THE DISCLOSURE UNDER SUBSECTION (B).

13           (2) OBTAINING PRIOR WRITTEN APPROVAL FROM A PUBLIC  
14          SAFETY AGENCY TO USE THE AUTOMATIC DIALING DEVICE TO ALERT  
15          THE PUBLIC SAFETY AGENCY OF AN ALARM CONDITION. THE PUBLIC  
16          SAFETY AGENCY SHALL NOT BE RESPONSIBLE FOR ANY COSTS FOR THE  
17          INSTALLATION AND MAINTENANCE OF ANY DEDICATED TELEPHONE LINE  
18          OR EQUIPMENT ASSOCIATED WITH THE ALARM TERMINATION.

19          (B) DISCLOSURE.--A PERSON SEEKING APPROVAL UNDER SUBSECTION  
20          (A) SHALL DISCLOSE THE TELEPHONE NUMBER OF A PERSON TO BE  
21          CONTACTED IF THE AUTOMATIC DIALING DEVICE IS ACTIVATED AND ALL  
22          RELEVANT FACTS CONCERNING THE DESIGN AND LAYOUT OF THE PREMISES  
23          TO BE PROTECTED BY THE AUTOMATIC DIALING DEVICE. THE PERSON  
24          SHALL INFORM THE PUBLIC SAFETY AGENCY OF ANY CHANGE IN THE  
25          INFORMATION REQUIRED BY THIS SUBSECTION AS SOON AS PRACTICABLE.

26          (C) FALSE ALARMS PROHIBITED.--

27           (1) A PERSON THAT OWNS, USES OR POSSESSES AN ALARM  
28          DEVICE OR AUTOMATIC DIALING DEVICE MAY NOT, AFTER CAUSING OR  
29          PERMITTING THREE FALSE ALARMS TO OCCUR IN A CONSECUTIVE 12-  
30          MONTH PERIOD, CAUSE OR PERMIT A SUBSEQUENT FALSE ALARM TO

1 OCCUR IN THE SAME CONSECUTIVE 12-MONTH PERIOD. A PERSON THAT  
2 VIOLATES THIS PARAGRAPH COMMITS A SUMMARY OFFENSE AND SHALL,  
3 UPON CONVICTION, BE SENTENCED TO PAY A FINE OF \$300.

4 (2) VENUE FOR PROSECUTION OF AN OFFENSE UNDER THIS  
5 SUBSECTION SHALL LIE AT ANY OF THE FOLLOWING PLACES:

6 (I) WHERE THE ALARM ORIGINATED.

7 (II) WHERE THE ALARM WAS RECEIVED BY THE:

8 (A) PUBLIC SERVICE AGENCY; OR

9 (B) THIRD PERSON DESIGNATED TO NOTIFY THE PUBLIC  
10 SERVICE AGENCY.

11 (3) DISPOSITION OF FINES SHALL BE AS FOLLOWS:

12 (I) THE FINE SHALL BE PAID TO THE MUNICIPALITY IF  
13 ALL OF THE FOLLOWING APPLY:

14 (A) THE PUBLIC SAFETY AGENCY WHICH RESPONDED TO  
15 THE FALSE ALARM SERVES THE MUNICIPALITY.

16 (B) THE PROSECUTION IS INITIATED BY THE PUBLIC  
17 SAFETY AGENCY UNDER CLAUSE (A) OR BY THE  
18 MUNICIPALITY.

19 (C) THE OFFENSE IS PROSECUTED BY THE APPROPRIATE  
20 DISTRICT ATTORNEY.

21 (II) THE FINE SHALL BE PAID TO THE COMMONWEALTH IF  
22 ALL OF THE FOLLOWING APPLY:

23 (A) THE PENNSYLVANIA STATE POLICE IS THE PUBLIC  
24 SAFETY AGENCY WHICH RESPONDED TO THE FALSE ALARM.

25 (B) THE PROSECUTION IS INITIATED BY THE  
26 PENNSYLVANIA STATE POLICE.

27 (C) THE OFFENSE IS PROSECUTED BY THE ATTORNEY  
28 GENERAL.

29 (D) THERE IS NO PROSECUTION UNDER SUBPARAGRAPH

30 (I).

1     (D) SUSPENSION OR REVOCATION OF APPROVAL.--THE PUBLIC SAFETY  
2 AGENCY MAY REFUSE, REVOKE OR SUSPEND THE APPROVAL GRANTED UNDER  
3 SUBSECTION (A) IF THE PUBLIC SAFETY AGENCY DETERMINES ANY OF THE  
4 FOLLOWING:

5             (1) THE REQUEST FOR APPROVAL CONTAINS A STATEMENT OF  
6 MATERIAL OF FACT WHICH IS FALSE.

7             (2) THE PERSON FAILED TO COMPLY WITH THIS SECTION.

8             (3) THE PERSON VIOLATED SUBSECTION (C).

9     (E) LOCAL REGULATION OF INSTALLERS.--

10            (1) GENERAL RULE.--EXCEPT AS SET FORTH IN PARAGRAPH (2),  
11 NOTHING IN THIS SECTION SHALL PROHIBIT A MUNICIPALITY FROM  
12 REQUIRING ANY INDIVIDUAL WHO INSTALLS ALARMS IN SUCH  
13 MUNICIPALITY TO ACQUIRE A LICENSE, MEET EDUCATIONAL  
14 REQUIREMENTS OR PASS AN EXAMINATION RELATING TO COMPETENCE TO  
15 PERFORM SUCH INSTALLATIONS. NOTHING IN THIS SECTION SHALL  
16 PRECLUDE MUNICIPALITIES FROM DOING ANY OF THE FOLLOWING:

17            (I) DENYING OR REVOKING LOCAL PERMITS FOR FAILURE TO  
18 COMPLY WITH LOCAL ORDINANCES.

19            (II) LEVYING LAWFUL TAXES AND FEES.

20            (III) REQUIRING THE PURCHASE OF A BUSINESS PRIVILEGE  
21 LICENSE.

22            (2) LIMITATION.--A MUNICIPALITY MAY NOT REQUIRE A  
23 LICENSED ELECTRICAL CONTRACTOR TO ACQUIRE A SEPARATE OR  
24 ADDITIONAL LICENSE OR CERTIFICATION TO INSTALL ALARMS IF THE  
25 ELECTRICAL CONTRACTOR IS LICENSED BY THE MUNICIPALITY AND HAS  
26 PASSED AN EXAMINATION IN THE NATIONAL ELECTRICAL CODE, A  
27 SIMILAR CODE OR LOCAL ELECTRICAL CODE AND HAS AT LEAST TWO  
28 YEARS' EXPERIENCE AS AN ELECTRICAL CONTRACTOR.

29     (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
30 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS

1 SUBSECTION:

2 "ALARM." A COMMUNICATION TO A PUBLIC SAFETY AGENCY  
3 INDICATING THAT A CRIME, FIRE OR OTHER EMERGENCY WARRANTING  
4 IMMEDIATE ACTION BY THAT PUBLIC SAFETY AGENCY HAS OCCURRED OR IS  
5 OCCURRING.

6 "ALARM DEVICE." A DEVICE DESIGNED TO AUTOMATICALLY TRANSMIT  
7 AN ALARM:

8 (1) DIRECTLY TO A PUBLIC SAFETY AGENCY; OR

9 (2) TO A PERSON THAT IS INSTRUCTED TO NOTIFY THE PUBLIC  
10 SAFETY AGENCY OF THE ALARM.

11 "AUTOMATIC DIALING DEVICE." A DEVICE WHICH IS INTERCONNECTED  
12 TO A TELEPHONE LINE AND PREPROGRAMMED TO TRANSMIT THE CODED  
13 SIGNAL OF AN ALARM TO A DEDICATED TELEPHONE TRUNK LINE OR TO  
14 DIAL A PREDETERMINED TELEPHONE NUMBER TO AN ALARM TO A PUBLIC  
15 SAFETY AGENCY.

16 "DEDICATED TELEPHONE TRUNK LINE." A TELEPHONE LINE OR LINES  
17 WHICH SERVES A PUBLIC SAFETY AGENCY WHICH IS DEDICATED TO  
18 RECEIVING TRANSMISSIONS FROM AN AUTOMATIC DIALING DEVICE.

19 "FALSE ALARM." THE ACTIVATION OF AN ALARM DEVICE TO WHICH A  
20 PUBLIC SAFETY AGENCY RESPONDS WHEN A CRIME, FIRE OR OTHER  
21 EMERGENCY HAS NOT OCCURRED.

22 "PERSON." AN INDIVIDUAL, CORPORATION, PARTNERSHIP,  
23 INCORPORATED ASSOCIATION OR OTHER SIMILAR ENTITY.

24 "PUBLIC SAFETY AGENCY." THE PENNSYLVANIA STATE POLICE OR ANY  
25 MUNICIPAL POLICE OR FIRE DEPARTMENT.

26 Section ~~2-3~~ 4. This act shall take effect in 60 days.

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