

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 227 Session of
2001

INTRODUCED BY HERMAN, BELARDI, CLARK, COLAFELLA, DONATUCCI,
GEIST, HENNESSEY, HERSHEY, HORSEY, JOSEPHS, MICHLOVIC,
S. MILLER, PHILLIPS, PISTELLA, PRESTON, READSHAW, SHANER,
SOLOBAY, STABACK, SURRA, E. Z. TAYLOR, J. TAYLOR, TRELLO,
WANSACZ, WOJNAROSKI AND SAYLOR, JANUARY 25, 2001

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 30, 2001

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for the definition
3 of "offensive weapons," for use or possession of electric or
4 electronic incapacitation devices, for penalties, for
5 aggravated assault and for use of tear or noxious gas in
6 labor disputes; imposing a penalty; and making an editorial
7 change.

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

10 Section 1. Section 908(c) of Title 18 of the Pennsylvania
11 Consolidated Statutes is amended to read:

12 § 908. Prohibited offensive weapons.

13 * * *

14 (c) [Definition] Definitions.--As used in this section, the
15 following words and phrases shall have the meanings given to
16 them in this subsection:

17 "Firearm." Any weapon which is designed to or may readily be
18 converted to expel any projectile by the action of an explosive

1 or the frame or receiver of any such weapon.

2 "Offensive weapons." Any bomb, grenade, machine gun, sawed-
3 off shotgun with a barrel less than 18 inches, firearm specially
4 made or specially adapted for concealment or silent discharge,
5 any blackjack, sandbag, metal knuckles, dagger, knife, razor or
6 cutting instrument, the blade of which is exposed in an
7 automatic way by switch, push-button, spring mechanism, or
8 otherwise, any stun gun, stun baton, taser or other electronic
9 or electric weapon, or other implement for the infliction of
10 serious bodily injury which serves no common lawful purpose.

11 * * *

12 Section 2. Title 18 is amended by adding a section to read:

13 § 908.1. Use or possession of electric or electronic
14 incapacitation device.

15 (a) Offense defined.--Except as set forth in subsection (b),
16 a person commits an offense if the person does any of the
17 following:

18 (1) Uses an electric or electronic incapacitation device
19 or weapon on another person.

20 (2) Possesses, with intent to violate paragraph (1), an
21 electric or electronic incapacitation device.

22 (b) Self defense.--A person may possess and use an electric
23 or electronic incapacitation device in the exercise of
24 reasonable force in defense of the person or the person's
25 property if the electric or electronic incapacitation device is
26 labeled with or accompanied by clearly written instructions as
27 to its use and the damages involved in its use.

28 (c) Prohibited possession.--No person prohibited from
29 possessing a firearm pursuant to section 6105 (relating to
30 persons not to possess, use, manufacture, control, sell or

1 transfer firearms) may possess or use an electric or electronic
2 incapacitation device.

3 (d) Grading.--An offense under subsection (a) shall
4 constitute a felony of the second degree if the actor acted with
5 the intent to commit a felony. Otherwise any offense under this
6 section is graded as a misdemeanor of the first degree.

7 (e) Exceptions.--Nothing in this section shall prohibit the
8 possession or use by, or the sale or furnishing of any electric
9 or electronic incapacitation device to, a law enforcement
10 agency, peace officer, employee of a correctional institution,
11 county jail or prison, or detention center, the National Guard
12 or reserves or a member of the National Guard or reserves for
13 use in their official duties.

14 (f) Definition.--As used in this section, the term "electric
15 or electronic incapacitation device" means a portable device
16 which is designed or intended by the manufacturer to be used,
17 offensively or defensively, to temporarily immobilize or
18 incapacitate persons by means of electric pulse or current,
19 including devices operating by means of carbon dioxide
20 propellant. The term does not include cattle prods, electric
21 fences or other electric devices when used in agricultural,
22 animal husbandry or food production activities.

23 Section 3. Sections 2702 and 2708 of Title 18 are amended to
24 read:

25 § 2702. Aggravated assault.

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

28 (1) attempts to cause serious bodily injury to another,
29 or causes such injury intentionally, knowingly or recklessly
30 under circumstances manifesting extreme indifference to the

1 value of human life;

2 (2) attempts to cause or intentionally, knowingly or
3 recklessly causes serious bodily injury to any of the
4 officers, agents, employees or other persons enumerated in
5 subsection (c) or to an employee of an agency, company or
6 other entity engaged in public transportation, while in the
7 performance of duty;

8 (3) attempts to cause or intentionally or knowingly
9 causes bodily injury to any of the officers, agents,
10 employees or other persons enumerated in subsection (c), in
11 the performance of duty;

12 (4) attempts to cause or intentionally or knowingly
13 causes bodily injury to another with a deadly weapon;

14 (5) attempts to cause or intentionally or knowingly
15 causes bodily injury to a teaching staff member, school board
16 member or other employee, including a student employee, of
17 any elementary or secondary publicly-funded educational
18 institution, any elementary or secondary private school
19 licensed by the Department of Education or any elementary or
20 secondary parochial school while acting in the scope of his
21 or her employment or because of his or her employment
22 relationship to the school; [or]

23 (6) attempts by physical menace to put any of the
24 officers, agents, employees or other persons enumerated in
25 subsection (c), while in the performance of duty, in fear of
26 imminent serious bodily injury[.]; or

27 (7) uses tear or noxious gas as defined in section
28 2708(b) (relating to use of tear or noxious gas in labor
29 disputes) or uses an electric or electronic incapacitation
30 device against any officer, employee or other person

1 enumerated in subsection (c) while acting in the scope of his
2 employment.

3 (b) Grading.--Aggravated assault under subsection (a)(1) and
4 (2) is a felony of the first degree. Aggravated assault under
5 subsection (a)(3), (4), (5) [and], (6) and (7) is a felony of
6 the second degree.

7 (c) Officers, employees, etc., enumerated.--The officers,
8 agents, employees and other persons referred to in subsection
9 (a) shall be as follows:

- 10 (1) Police officer.
- 11 (2) Firefighter.
- 12 (3) County adult probation or parole officer.
- 13 (4) County juvenile probation or parole officer.
- 14 (5) An agent of the Pennsylvania Board of Probation and
15 Parole.
- 16 (6) Sheriff.
- 17 (7) Deputy sheriff.
- 18 (8) Liquor control enforcement agent.
- 19 (9) Officer or employee of a correctional institution,
20 county jail or prison, juvenile detention center or any other
21 facility to which the person has been ordered by the court
22 pursuant to a petition alleging delinquency under 42 Pa.C.S.
23 Ch. 63 (relating to juvenile matters).
- 24 (10) Judge of any court in the unified judicial system.
- 25 (11) The Attorney General.
- 26 (12) A deputy attorney general.
- 27 (13) A district attorney.
- 28 (14) An assistant district attorney.
- 29 (15) A public defender.
- 30 (16) An assistant public defender.

- 1 (17) A Federal law enforcement official.
- 2 (18) A State law enforcement official.
- 3 (19) A local law enforcement official.
- 4 (20) Any person employed to assist or who assists any
5 Federal, State or local law enforcement official.
- 6 (21) Emergency medical services personnel.
- 7 (22) Parking enforcement officer.
- 8 (23) A district justice.
- 9 (24) A constable.
- 10 (25) A deputy constable.
- 11 (26) A psychiatric aide.
- 12 (27) A teaching staff member, a school board member or
13 other employee, including a student employee, of any
14 elementary or secondary publicly funded educational
15 institution, any elementary or secondary private school
16 licensed by the Department of Education or any elementary or
17 secondary parochial school while acting in the scope of his
18 or her employment or because of his or her employment
19 relationship to the school.
- 20 (28) Governor.
- 21 (29) Lieutenant Governor.
- 22 (30) Auditor General.
- 23 (31) State Treasurer.
- 24 (32) Member of the General Assembly.
- 25 (33) AN EMPLOYEE OF THE DEPARTMENT OF ENVIRONMENTAL <—
26 PROTECTION.
- 27 (34) AN INDIVIDUAL ENGAGED IN THE PRIVATE DETECTIVE
28 BUSINESS, AS DEFINED IN SECTION 2(A) AND (B) OF THE ACT OF
29 AUGUST 21, 1953 (P.L.1273, NO.361), KNOWN AS THE PRIVATE
30 DETECTIVE ACT OF 1953.

(d) [Definition.--As used in this section, the term "emergency] Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Electric or electronic incapacitation device." A portable device which is designed or intended by the manufacturer to be used to temporarily immobilize or incapacitate persons by means of electric pulse or current, including devices operated by means of carbon dioxide propellant.

"Emergency medical services [personnel]" personnel." The term includes, but is not limited to, doctors, residents, interns, registered nurses, licensed practical nurses, nurse aides, ambulance attendants and operators, paramedics, emergency medical technicians and members of a hospital security force while working within the scope of their employment.

§ 2708. Use of tear or noxious gas in labor disputes.

(a) Offense defined.--A person other than a duly constituted officer of the law is guilty of a misdemeanor of the first degree if he uses or directs the use of tear or noxious gas against any person involved in a labor dispute.

(b) Definition.--As used in this section, the term "tear or noxious gas" means any liquid or gaseous substance that, when dispersed in the atmosphere, blinds the eyes with tears or irritates or injures other organs and tissues of the human body or causes nausea, including, but not limited to, red pepper spray.

Section 4. This act shall take effect in 60 days.