

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1117 Session of
2003

INTRODUCED BY MAHER, GEIST, BENNINGHOFF, BUNT, CAPPELLI, CIVERA,
COY, HARHAI, HERMAN, HORSEY, LAUGHLIN, McCALL, MELIO,
S. MILLER, PAYNE, SATHER, STERN, WASHINGTON, WATSON, WILT AND
YOUNGBLOOD, APRIL 9, 2003

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JUNE 30, 2004

AN ACT

1 Amending ~~Title~~ TITLES 18 (Crimes and Offenses) AND 42 (JUDICIARY <—
2 AND JUDICIAL PROCEDURE) of the Pennsylvania Consolidated
3 Statutes, ~~defining the offense of trespassing on railroad~~ <—
4 ~~property; and providing~~ PROVIDING FOR RAILROAD PROTECTION, <—
5 RAILROAD VANDALISM AND INTERFERENCE WITH TRANSPORTATION
6 FACILITIES AND for penalties; AND PROVIDING FOR RAILROAD <—
7 CIVIL IMMUNITY.

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

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

12 § 3504. Railroad protection, railroad vandalism and
13 interference with transportation facilities.

14 (a) Damage to railroad or delay of railroad operations.--

15 (1) A person commits an offense if, without lawful
16 authority or the railroad carrier's consent, he causes damage
17 to property that he knows or reasonably should have known to
18 be railroad property, including the railroad right-of-way or
19 yard, or causes a delay in railroad operations, by an act

1 including, but not limited to:

2 (i) Knowingly, purposefully or recklessly
3 disrupting, delaying or preventing the operation of any
4 train, jitney, trolley or any other facility of
5 transportation.

6 (ii) Driving or operating a recreational vehicle or
7 nonrecreational vehicle, including, but not limited to, a
8 bicycle, motorcycle, snowmobile, all-terrain vehicle, car
9 or truck.

10 (iii) Knowingly, purposefully or recklessly damaging
11 railroad property, railroad infrastructure or railroad
12 equipment or using railroad property to access adjoining
13 property to commit acts of vandalism, theft or other
14 criminal acts.

15 (2) An offense under this subsection constitutes a
16 misdemeanor of the third degree.

17 (b) Stowaways prohibited.--

18 (1) A person commits an offense if, without lawful
19 authority or the railroad carrier's consent, he rides on the
20 outside of a train or inside a passenger car, locomotive or
21 freight car, including a box car, flatbed or container.

22 (2) An offense under this subsection constitutes a
23 misdemeanor of the third degree.

24 ~~(c) Limitation on liability.--~~

25 ~~(1) A railroad carrier owes no duty of care to keep its~~
26 ~~railroad property safe for entry or use by any person who~~
27 ~~enters upon any railroad property or railroad right of way or~~
28 ~~to give any warning to such person entering or going on that~~
29 ~~railroad property of a dangerous condition, use or activity~~
30 ~~thereon.~~

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~~(2) Except as set forth in paragraph (3), a railroad carrier shall not:~~

~~(i) Be presumed to extend any assurance to a person entering or going on railroad property without the railroad carrier's consent that the railroad property is safe for any purpose.~~

~~(ii) Incur any duty of care toward a person entering or going on railroad property without the railroad carrier's consent.~~

~~(iii) Become liable for any injury to a person entering or going on railroad property without the railroad carrier's consent caused by an act or omission of such person.~~

~~(3) Nothing in this subsection limits in any way any liability which otherwise exists for willful or malicious failure to guard or warn against a dangerous condition, use or activity.~~

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

"Railroad." Any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including, but not limited to:

(1) Commuter or other short-haul railroad passenger service in a metropolitan or suburban area.

(2) High-speed ground transportation systems that connect metropolitan areas, but not rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

"Railroad carrier." A person, including, but not limited to,

1 an owner or operator, providing railroad transportation.

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2 "Railroad carrier's consent." Written or other affirmative
3 communication of permission to be on railroad property. Consent
4 shall not be implied.

5 "Railroad property." All tangible property owned, leased or
6 operated by a railroad carrier, including a right-of-way, track,
7 bridge, yard, shop, station, tunnel, viaduct, trestle, depot,
8 warehouse, terminal or any other structure, appurtenance or
9 equipment owned, leased or used in the operation of any railroad
10 carrier including a train, locomotive, engine, railroad car,
11 work equipment, rolling stock or safety device. The term does
12 not include a railroad carrier's administrative building or
13 offices, office equipment or intangible property such as
14 computer software or other information.

15 "Right-of-way." The track or roadbed owned, leased or
16 operated by a railroad carrier which is located on either side
17 of its tracks and which is readily recognizable to a reasonable
18 person as being railroad property or is reasonably identified as
19 such by fencing or appropriate signs.

20 "Yard." A system of parallel tracks, crossovers and switches
21 where railroad cars are switched and made up into trains and
22 where railroad cars, locomotives and other rolling stock are
23 kept when not in use or when awaiting repairs.

24 ~~Section 2. This act shall take effect in 60 days.~~

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25 SECTION 2. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:

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26 § 8339.1. RAILROAD CIVIL IMMUNITY.

27 (A) GENERAL RULE.--A RAILROAD CARRIER OWES NO DUTY OF CARE
28 TO KEEP ITS RAILROAD PROPERTY SAFE FOR ENTRY OR USE BY ANY
29 TRESPASSER WHO ENTERS UPON ANY RAILROAD PROPERTY OR RAILROAD
30 RIGHT-OF-WAY OR TO GIVE ANY WARNING TO SUCH TRESPASSER ENTERING

1 OR GOING ON THAT RAILROAD PROPERTY OF A DANGEROUS CONDITION, USE
2 OR ACTIVITY THEREON.

3 (B) EXCEPTIONS.--EXCEPT AS SET FORTH IN SUBSECTION (C), A
4 RAILROAD CARRIER SHALL NOT:

5 (1) BE PRESUMED TO EXTEND ANY ASSURANCE TO A TRESPASSER
6 ENTERING OR GOING ON RAILROAD PROPERTY WITHOUT THE RAILROAD
7 CARRIER'S CONSENT THAT THE RAILROAD PROPERTY IS SAFE FOR ANY
8 PURPOSE.

9 (2) INCUR ANY DUTY OF CARE TOWARD A TRESPASSER ENTERING
10 OR GOING ON RAILROAD PROPERTY WITHOUT THE RAILROAD CARRIER'S
11 CONSENT.

12 (3) BECOME LIABLE FOR ANY INJURY TO A TRESPASSER
13 ENTERING OR GOING ON RAILROAD PROPERTY WITHOUT THE RAILROAD
14 CARRIER'S CONSENT CAUSED BY AN ACT OR OMISSION OF SUCH
15 TRESPASSER.

16 (C) LIMITATION.--NOTHING IN THIS SUBSECTION LIMITS IN ANY
17 WAY ANY LIABILITY WHICH OTHERWISE EXISTS FOR WILLFUL OR
18 MALICIOUS FAILURE TO GUARD OR WARN AGAINST A DANGEROUS
19 CONDITION, USE OR ACTIVITY.

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

23 "TRESPASSER." A PERSON WHO ENTERS ONTO PROPERTY THE PERSON
24 KNOWS OR SHOULD HAVE KNOWN TO BE RAILROAD PROPERTY WITHOUT ANY
25 RIGHT, LAWFUL AUTHORITY OR EXPRESS OR IMPLIED INVITATION.

26 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.