

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 213 Session of
2005

INTRODUCED BY GODSHALL, BALDWIN, BELFANTI, BENNINGHOFF, BUNT,
CRAHALLA, CREIGHTON, DENLINGER, FRANKEL, GERGELY, GOODMAN,
HERSHEY, HESS, HUTCHINSON, LEDERER, LEH, R. MILLER,
S. MILLER, PICKETT, SEMMEL, STABACK, STERN, TANGRETTI,
YOUNGBLOOD AND CAUSER, FEBRUARY 2, 2005

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 14, 2005

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, adding an offense and a civil action relating to
4 ecoterrorism.

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

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

9 ~~§ 3311. Ecoterrorism.~~

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10 ~~(a) Offense defined. A person commits the offense of~~
11 ~~ecoterrorism if, with the intent to intimidate or coerce a~~
12 ~~government, the civilian population or any segment thereof in~~
13 ~~furtherance of political or social objectives, the person~~
14 ~~intentionally uses force or violence or the threat of force or~~
15 ~~violence to:~~

16 ~~(1) prevent an individual from lawfully participating in~~
17 ~~an activity involving animals or an activity involving~~

~~natural resources by:~~

~~(i) obstructing the use of an animal or a natural resource owned by the individual, if the obstruction is for a period of time sufficient to significantly decrease the value or enjoyment of the animal or the natural resource to the individual;~~

~~(ii) damaging or disposing of an animal or a natural resource owned by the individual, if the damage or disposal substantially reduces the condition or usefulness of the animal or the natural resource; or~~

~~(iii) detaining an animal or a natural resource owned by the individual and demanding compensation in exchange for release of the animal or the natural resource; or~~

~~(2) prevent an individual's use of an animal facility without the consent of the facility's owner by:~~

~~(i) damaging the facility or property in the facility;~~

~~(ii) physically disrupting the operation of the facility;~~

~~(iii) unlawfully entering or remaining in the facility and engaging in an activity described in paragraph (1); or~~

~~(iv) unlawfully entering or remaining in the facility despite a notice denying entry.~~

~~(b) Grading. Ecoterrorism is a felony of the third degree if the actor causes pecuniary loss in excess of \$5,000 or a misdemeanor of the first degree if the actor causes pecuniary loss in excess of \$500. Otherwise, ecoterrorism is a misdemeanor of the second degree.~~

~~(c) Definition. As used in this section, the term "animal facility" means a vehicle, building, structure or other premises where an animal is lawfully housed, exhibited or offered for sale, or which is used for scientific purposes involving animals, including research, testing and experiments.~~

~~Section 2. Title 42 is amended by adding a section to read:~~
~~§ 8317. Ecoterrorism.~~

~~An individual aggrieved by the offense of ecoterrorism, as defined in 18 Pa.C.S. § 3311(a) (relating to ecoterrorism), may in a civil action in any court of competent jurisdiction, obtain appropriate relief, including compensatory and punitive damages, reasonable investigative expenses and reasonable attorney fees and other costs associated with the litigation. Upon a showing of cause for the issuance of injunctive relief, a court may order the cessation of the activity forming the basis of the complaint.~~

~~§ 3311. ECOTERRORISM.~~

~~(A) GENERAL RULE.--A PERSON IS GUILTY OF ECOTERRORISM IF THE PERSON COMMITS AN OFFENSE AGAINST PROPERTY INTENDING TO DO ANY OF THE FOLLOWING:~~

~~(1) INTIMIDATE OR COERCE AN INDIVIDUAL LAWFULLY:~~

~~(I) PARTICIPATING IN AN ACTIVITY INVOLVING ANIMALS OR AN ACTIVITY INVOLVING NATURAL RESOURCES; OR~~

~~(II) USING AN ANIMAL OR NATURAL RESOURCE FACILITY.~~

~~(2) PREVENT OR OBSTRUCT AN INDIVIDUAL FROM LAWFULLY:~~

~~(I) PARTICIPATING IN AN ACTIVITY INVOLVING ANIMALS OR AN ACTIVITY INVOLVING NATURAL RESOURCES; OR~~

~~(II) USING AN ANIMAL OR NATURAL RESOURCE FACILITY.~~

~~(B) GRADING AND PENALTY.--~~

~~(1) IF THE OFFENSE AGAINST PROPERTY IS A SUMMARY~~

1 OFFENSE, AN OFFENSE UNDER THIS SECTION SHALL BE CLASSIFIED AS
2 A MISDEMEANOR OF THE THIRD DEGREE.

3 (2) IF THE OFFENSE AGAINST PROPERTY IS A MISDEMEANOR OR
4 A FELONY OF THE THIRD OR SECOND DEGREE, AN OFFENSE UNDER THIS
5 SECTION SHALL BE CLASSIFIED ONE DEGREE HIGHER THAN THE
6 CLASSIFICATION OF THE OFFENSE AGAINST PROPERTY SPECIFIED IN
7 SECTION 106 (RELATING TO CLASSES OF OFFENSES).

8 (3) IF THE OFFENSE AGAINST PROPERTY IS A FELONY OF THE
9 FIRST DEGREE, A PERSON CONVICTED OF AN OFFENSE UNDER THIS
10 SECTION SHALL BE SENTENCED TO A TERM OF IMPRISONMENT FIXED BY
11 THE COURT AT NOT MORE THAN 40 YEARS AND MAY BE SENTENCED TO
12 PAY A FINE OF NOT MORE THAN \$100,000.

13 (C) RESTITUTION; COSTS AND FEES.--ANY PERSON CONVICTED OF
14 VIOLATING THIS SECTION SHALL, IN ADDITION TO ANY OTHER PENALTY
15 IMPOSED, BE SENTENCED TO PAY THE OWNER OF ANY DAMAGED PROPERTY,
16 WHICH RESULTED FROM THE VIOLATION, RESTITUTION, ATTORNEY FEES
17 AND COURT COSTS. RESTITUTION SHALL BE IN AN AMOUNT UP TO TRIPLE
18 THE VALUE OF THE PROPERTY DAMAGES INCURRED AS A RESULT OF THE
19 OFFENSE AGAINST PROPERTY. IN ORDERING RESTITUTION PURSUANT TO
20 THIS SUBSECTION, THE COURT SHALL CONSIDER AS PART OF THE VALUE
21 OF THE DAMAGED PROPERTY THE MARKET VALUE OF THE PROPERTY PRIOR
22 TO THE VIOLATION AND THE PRODUCTION, RESEARCH, TESTING,
23 REPLACEMENT AND DEVELOPMENT COSTS DIRECTLY RELATED TO THE
24 PROPERTY THAT WAS THE SUBJECT OF THE SPECIFIED OFFENSE.

25 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
26 WORDS AS PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
27 SUBSECTION:

28 "ACTIVITY INVOLVING ANIMALS." A LAWFUL ACTIVITY INVOLVING
29 THE USE OF ANIMALS OR ANIMAL PARTS, INCLUDING ANY OF THE
30 FOLLOWING:

1 (1) ACTIVITIES AUTHORIZED UNDER 30 PA.C.S. (RELATING TO
2 FISH) AND 34 PA.C.S. (RELATING TO GAME).

3 (2) ACTIVITIES AUTHORIZED UNDER THE ACT OF DECEMBER 7,
4 1982 (P.L.784, NO.225), KNOWN AS THE DOG LAW.

5 (3) FOOD PRODUCTION, PROCESSING AND PREPARATION.

6 (4) CLOTHING MANUFACTURING AND DISTRIBUTION.

7 (5) ENTERTAINMENT AND RECREATION.

8 (6) RESEARCH, TEACHING AND TESTING.

9 (7) AGRICULTURAL ACTIVITY AND FARMING AS DEFINED IN
10 SECTION 3309 (RELATING TO AGRICULTURAL VANDALISM).

11 "ACTIVITY INVOLVING NATURAL RESOURCES." A LAWFUL ACTIVITY
12 INVOLVING THE USE OF A NATURAL RESOURCE WITH AN ECONOMIC VALUE,
13 INCLUDING ANY OF THE FOLLOWING:

14 (1) MINING, FORESTING, HARVESTING OR PROCESSING NATURAL
15 RESOURCES.

16 (2) THE SALE, LOAN OR LEASE OF PRODUCTS WHICH REQUIRES
17 THE USE OF NATURAL RESOURCES.

18 "ANIMAL OR NATURAL RESOURCE FACILITY." A VEHICLE, BUILDING,
19 STRUCTURE OR OTHER PREMISES:

20 (1) WHERE AN ANIMAL OR NATURAL RESOURCE IS LAWFULLY
21 HOUSED, EXHIBITED OR OFFERED FOR SALE; OR

22 (2) WHICH IS USED FOR SCIENTIFIC PURPOSES INVOLVING
23 ANIMALS OR NATURAL RESOURCES, INCLUDING RESEARCH, TEACHING
24 AND TESTING.

25 "OFFENSE AGAINST PROPERTY." AN OFFENSE UNDER ARTICLE C OF
26 PART II (RELATING TO OFFENSES AGAINST PROPERTY).

27 SECTION 2. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:
28 § 8317. ECOTERRORISM.

29 (A) CIVIL ACTION AND RELIEF.--AN INDIVIDUAL AGGRIEVED BY THE
30 OFFENSE OF ECOTERRORISM, AS DEFINED IN 18 PA.C.S. § 3311(A)

1 (RELATING TO ECOTERRORISM), MAY IN A CIVIL ACTION IN ANY COURT
2 OF COMPETENT JURISDICTION OBTAIN APPROPRIATE RELIEF, INCLUDING
3 COMPENSATORY AND PUNITIVE DAMAGES, REASONABLE INVESTIGATIVE
4 EXPENSES AND REASONABLE ATTORNEY FEES AND OTHER COSTS ASSOCIATED
5 WITH THE LITIGATION. UPON A SHOWING OF CAUSE FOR THE ISSUANCE OF
6 INJUNCTIVE RELIEF, A COURT MAY ISSUE TEMPORARY RESTRAINING
7 ORDERS, PRELIMINARY INJUNCTIONS AND PERMANENT INJUNCTIONS AS MAY
8 BE APPROPRIATE UNDER THIS SECTION. DURING ANY PERIOD THAT AN
9 ACTION UNDER THIS SECTION IS PENDING, A COURT MAY ORDER THE
10 CESSATION OF THE ACTIVITY FORMING THE BASIS OF THE COMPLAINT.

11 (B) VALUATIONS.--IN AWARDING DAMAGES UNDER THIS SECTION, A
12 COURT SHALL CONSIDER THE MARKET VALUE OF THE PROPERTY PRIOR TO
13 DAMAGE AND PRODUCTION, RESEARCH, TESTING, REPLACEMENT AND
14 DEVELOPMENT COSTS DIRECTLY RELATED TO THE PROPERTY THAT HAS BEEN
15 DAMAGED AS PART OF THE VALUE OF THE PROPERTY AS WELL AS DAMAGE
16 TO ANY RECORDS, DATA AND DATA-GATHERING EQUIPMENT OR DEVICES.

17 (C) LIMITATIONS.--DAMAGES RECOVERED UNDER THIS SECTION SHALL
18 BE LIMITED TO TRIPLE THE MARKET VALUE OF THE PROPERTY PRIOR TO
19 DAMAGE AND ACTUAL DAMAGES INVOLVING PRODUCTION, RESEARCH,
20 TESTING, REPLACEMENT AND DEVELOPMENT COSTS DIRECTLY RELATED TO
21 THE PROPERTY THAT HAS BEEN DAMAGED.

22 Section 3. This act shall take effect in 60 days.