

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 AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MARCH 16, 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.

10 (a) General rule.--A person is guilty of ecoterrorism if the
11 person commits an offense against property intending to do any
12 of the following:

13 (1) Intimidate or coerce an individual lawfully:

14 (i) participating in an activity involving animals
15 or an activity involving natural resources; or

16 (ii) using an animal or natural resource facility.

17 (2) Prevent or obstruct an individual from lawfully:

1 (i) participating in an activity involving animals
2 or an activity involving natural resources; or
3 (ii) using an animal or natural resource facility.

4 (b) Grading and penalty.--

5 (1) If the offense against property is a summary
6 offense, an offense under this section shall be classified as
7 a misdemeanor of the third degree.

8 (2) If the offense against property is a misdemeanor or
9 a felony of the third or second degree, an offense under this
10 section shall be classified one degree higher than the
11 classification of the offense against property specified in
12 section 106 (relating to classes of offenses).

13 (3) If the offense against property is a felony of the
14 first degree, a person convicted of an offense under this
15 section shall be sentenced to a term of imprisonment fixed by
16 the court at not more than 40 years and may be sentenced to
17 pay a fine of not more than \$100,000.

18 (c) Restitution; costs and fees.--Any person convicted of
19 violating this section shall, in addition to any other penalty
20 imposed, be sentenced to pay the owner of any damaged property,
21 which resulted from the violation, restitution, attorney fees
22 and court costs. Restitution shall be in an amount up to triple
23 the value of the property damages incurred as a result of the
24 offense against property. In ordering restitution pursuant to
25 this subsection, the court shall consider as part of the value
26 of the damaged property the market value of the property prior
27 to the violation and the production, research, testing,
28 replacement and development costs directly related to the
29 property that was the subject of the specified offense.

30 (C.1) IMMUNITY.--A PERSON WHO EXERCISES THE RIGHT OF

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1 PETITION OR FREE SPEECH UNDER THE UNITED STATES CONSTITUTION OR
2 THE CONSTITUTION OF PENNSYLVANIA ON PUBLIC PROPERTY OR WITH THE
3 PERMISSION OF THE LANDOWNER WHERE THE PERSON IS PEACEABLY
4 DEMONSTRATING OR PEACEABLY PURSUING HIS CONSTITUTIONAL RIGHTS
5 SHALL BE IMMUNE FROM PROSECUTION FOR THESE ACTIONS UNDER THIS
6 SECTION OR FROM CIVIL LIABILITY UNDER 42 PA.C.S. § 8317
7 (RELATING TO ECOTERRORISM).

8 (d) Definitions.--As used in this section, the following
9 words as phrases shall have the meanings given to them in this
10 subsection:

11 "Activity involving animals." A lawful activity involving
12 the use of animals or animal parts, including any of the
13 following:

14 (1) Activities authorized under 30 Pa.C.S. (relating to
15 fish) and 34 Pa.C.S. (relating to game).

16 (2) Activities authorized under the act of December 7,
17 1982 (P.L.784, No.225), known as the Dog Law.

18 (3) Food production, processing and preparation.

19 (4) Clothing manufacturing and distribution.

20 (5) Entertainment and recreation.

21 (6) Research, teaching and testing.

22 (7) Agricultural activity and farming as defined in
23 section 3309 (relating to agricultural vandalism).

24 "Activity involving natural resources." A lawful activity
25 involving the use of a natural resource with an economic value,
26 including any of the following:

27 (1) Mining, foresting, harvesting or processing natural
28 resources.

29 (2) The sale, loan or lease of products which requires
30 the use of natural resources.

1 "Animal or natural resource facility." A vehicle, building,
2 structure or other premises:

3 (1) where an animal or natural resource is lawfully
4 housed, exhibited or offered for sale; or

5 (2) which is used for scientific purposes involving
6 animals or natural resources, including research, teaching
7 and testing.

8 "Offense against property." An offense under Article C of
9 Part II (relating to offenses against property).

10 Section 2. Title 42 is amended by adding a section to read:
11 § 8317. Ecoterrorism.

12 (a) Civil action and relief.--An individual aggrieved by the
13 offense of ecoterrorism, as defined in 18 Pa.C.S. § 3311(a)
14 (relating to ecoterrorism), may in a civil action in any court
15 of competent jurisdiction obtain appropriate relief, including
16 compensatory and punitive damages, reasonable investigative
17 expenses and reasonable attorney fees and other costs associated
18 with the litigation. Upon a showing of cause for the issuance of
19 injunctive relief, a court may issue temporary restraining
20 orders, preliminary injunctions and permanent injunctions as may
21 be appropriate under this section. During any period that an
22 action under this section is pending, a court may order the
23 cessation of the activity forming the basis of the complaint.

24 (b) Valuations.--In awarding damages under this section, a
25 court shall consider the market value of the property prior to
26 damage and production, research, testing, replacement and
27 development costs directly related to the property that has been
28 damaged as part of the value of the property as well as damage
29 to any records, data and data-gathering equipment or devices.

30 (c) Limitations.--Damages recovered under this section shall

1 be limited to triple the market value of the property prior to
2 damage and actual damages involving production, research,
3 testing, replacement and development costs directly related to
4 the property that has been damaged.

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