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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1025 Session of  
2005

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INTRODUCED BY MAITLAND, CRAHALLA, M. KELLER, MILLARD, SCAVELLO,  
E. Z. TAYLOR AND WALKO, MARCH 21, 2005

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REFERRED TO COMMITTEE ON JUDICIARY, MARCH 21, 2005

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, defining, in theft and related  
3 offenses, "firearm" and "organized theft"; and further  
4 providing for grading of theft offenses and for the offenses  
5 of theft by deception, theft by extortion, theft of services,  
6 retail theft and library theft.

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

9 Section 1. Section 3901 of Title 18 of the Pennsylvania  
10 Consolidated Statutes is amended by adding definitions to read:  
11 § 3901. Definitions.

12 Subject to additional definitions contained in subsequent  
13 provisions of this chapter which are applicable to specific  
14 provisions of this chapter, the following words and phrases when  
15 used in this chapter shall have, unless the context clearly  
16 indicates otherwise, the meanings given to them in this section:

17 \* \* \*

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

1 or the frame or receiver of any such weapon.

2 \* \* \*

3 "Organized theft." An offense defined under this chapter  
4 committed pursuant to one scheme or course of conduct where the  
5 aggregate value of the property involved is \$150 or more and the  
6 property was stolen from at least three persons.

7 \* \* \*

8 Section 2. Section 3903 of Title 18, amended November 23,  
9 2004 (P.L.953, No.143), is amended to read:

10 § 3903. Grading of theft offenses.

11 [(a) Felony of the second degree.--Theft constitutes a  
12 felony of the second degree if:

13 (1) The offense is committed during a manmade disaster,  
14 a natural disaster or a war-caused disaster and constitutes a  
15 violation of section 3921 (relating to theft by unlawful  
16 taking or disposition), 3925 (relating to receiving stolen  
17 property), 3928 (relating to unauthorized use of automobiles  
18 and other vehicles) or 3929 (relating to retail theft).

19 (2) The property stolen is a firearm.

20 (3) In the case of theft by receiving stolen property,  
21 the property received, retained or disposed of is a firearm  
22 and the receiver is in the business of buying or selling  
23 stolen property.

24 (4) The property stolen is any amount of anhydrous  
25 ammonia.

26 (a.1) Felony of the third degree.--Except as provided in  
27 subsection (a), theft constitutes a felony of the third degree  
28 if the amount involved exceeds \$2,000, or if the property stolen  
29 is an automobile, airplane, motorcycle, motorboat or other  
30 motor-propelled vehicle, or in the case of theft by receiving

1 stolen property, if the receiver is in the business of buying or  
2 selling stolen property.]

3 (a.2) Felony of the first degree.--Theft constitutes a  
4 felony of the first degree if the amount involved is \$500,000 or  
5 more.

6 (a.3) Felony of the second degree.--Except as provided in  
7 subsection (a.2), theft constitutes a felony of the second  
8 degree if:

9 (1) The offense is committed during a manmade disaster,  
10 a natural disaster or a war-caused disaster and constitutes a  
11 violation of section 3921 (relating to theft by unlawful  
12 taking or disposition), 3925 (relating to receiving stolen  
13 property), 3928 (relating to unauthorized use of automobiles  
14 and other vehicles) or 3929 (relating to retail theft).

15 (2) The property stolen is a firearm.

16 (3) In the case of theft by receiving stolen property,  
17 the property received, retained or disposed of is a firearm  
18 and the receiver is in the business of buying or selling  
19 stolen property.

20 (4) The property stolen is any amount of anhydrous  
21 ammonia.

22 (5) The amount involved is \$100,000 or more but less  
23 than \$500,000.

24 (a.4) Felony of the third degree.--Except as provided in  
25 subsections (a.2) and (a.3), theft constitutes a felony of the  
26 third degree if:

27 (1) the amount involved is \$500 or more but less than  
28 \$100,000;

29 (2) the offense is a third or subsequent offense under  
30 this chapter;

1           (3) the offense is organized theft;  
2           (4) the property stolen is an automobile, airplane,  
3           motorcycle, motorboat or other motor-propelled vehicle; or  
4           (5) in the case of theft by receiving stolen property,  
5           if the receiver is in the business of buying or selling  
6           stolen property or the property received, retained or  
7           disposed of is a firearm.

8           (b) Other grades.--Theft not within subsection [(a) or (a.1)  
9 of this section,] (a.2), (a.3) or (a.4) constitutes a  
10 [misdemeanor of the first degree, except that if the property  
11 was not taken from the person or by threat, or in breach of  
12 fiduciary obligation, and:

13           (1) the amount involved was \$50 or more but less than  
14 \$200 the offense constitutes a misdemeanor of the second  
15 degree; or

16           (2) the amount involved was less than \$50 the offense  
17 constitutes a misdemeanor of the third degree.];

18           (1) Summary offense if the offense is a first offense  
19           and the value of the property is less than \$150.

20           (2) Misdemeanor of the second degree if the offense is a  
21           second offense and the value of the property is less than  
22           \$150.

23           (3) Misdemeanor of the first degree if the offense is a  
24           first or second offense and the value of the property is \$150  
25           or more.

26           (c) Valuation.--The amount involved in a theft shall be  
27 ascertained as follows:

28           (1) Except as otherwise specified in this section, value  
29 means the market value of the property at the time and place  
30 of the crime, or if such cannot be satisfactorily

1       ascertained, the cost of replacement of the property within a  
2       reasonable time after the crime.

3           (2) Whether or not they have been issued or delivered,  
4       certain written instruments, not including those having a  
5       readily ascertainable market value such as some public and  
6       corporate bonds and securities, shall be evaluated as  
7       follows:

8           (i) The value of an instrument constituting an  
9       evidence of debt, such as a check, draft or promissory  
10      note, shall be deemed the amount due or collectible  
11      thereon or thereby, such figure ordinarily being the face  
12      amount of the indebtedness less any portion thereof which  
13      has been satisfied.

14          (ii) The value of any other instrument which  
15      creates, releases, discharges or otherwise affects any  
16      valuable legal right, privilege or obligation shall be  
17      deemed the greatest amount of economic loss which the  
18      owner of the instrument might reasonably suffer by virtue  
19      of the loss of the instrument.

20          (3) When the value of property cannot be satisfactorily  
21      ascertained pursuant to the standards set forth in paragraphs  
22      (1) and (2) of this subsection its value shall be deemed to  
23      be an amount less than \$50. Amounts involved in thefts  
24      committed pursuant to one scheme or course of conduct,  
25      whether from the same person or several persons, may be  
26      aggregated in determining the grade of the offense.

27      (c.1) Sentencing enhancement for theft of public funds or  
28      theft in breach of a fiduciary duty.--Notwithstanding section  
29      1103 (relating to sentence of imprisonment for felony), the  
30      maximum term of imprisonment for an offense graded a felony

1 under this section may be increased by a term of imprisonment  
2 not to exceed five years when the theft is from a political  
3 subdivision, local authority or a public or private charitable  
4 organization or when the theft constitutes a breach of fiduciary  
5 duty.

6 (c.2) Fingerprinting.--

7 (1) Prior to the commencement of trial or entry of plea  
8 of a defendant 16 years of age or older accused of a summary  
9 offense under this chapter, the issuing authority shall order  
10 the defendant to submit within five days of such order for  
11 fingerprinting by the municipal police of the jurisdiction in  
12 which the offense allegedly was committed or the Pennsylvania  
13 State Police.

14 (2) Fingerprints obtained under paragraph (1) by  
15 municipal police shall be forwarded immediately to the  
16 Pennsylvania State Police for determination as to whether or  
17 not the defendant previously has been convicted of an offense  
18 under this chapter. The results of such determination shall  
19 be forwarded to the police department obtaining the  
20 fingerprints if such department is the prosecutor, or to the  
21 issuing authority if the prosecutor is other than a police  
22 officer.

23 (3) The issuing authority shall not proceed with the  
24 trial or plea in summary cases until in receipt of the  
25 determination made by the Pennsylvania State Police.

26 (4) The magisterial district judges shall use the  
27 information obtained solely for the purpose of grading the  
28 offense pursuant to this chapter.

29 (d) Definitions.--As used in this section, the following  
30 words and phrases shall have the meanings given to them in this

1 subsection:

2 "Charitable organization." As defined under section 3 of the  
3 act of December 19, 1990 (P.L.1200, No.202), known as the  
4 Solicitation of Funds for Charitable Purposes Act.

5 "Manmade disaster." Any industrial, nuclear or  
6 transportation accident, explosion, conflagration, power  
7 failure, natural resource shortage or other condition, except  
8 enemy action, resulting from manmade causes, such as oil spills  
9 and other injurious environmental contamination, which threatens  
10 or causes substantial damage to property, human suffering,  
11 hardship or loss of life.

12 "Natural disaster." Any hurricane, tornado, storm, flood,  
13 high water, wind-driven water, tidal wave, earthquake,  
14 landslide, mudslide, snowstorm, drought, fire, explosion or  
15 other catastrophe which results in substantial damage to  
16 property, hardship, suffering or possible loss of life.

17 "War-caused disaster." Any condition following an attack  
18 upon the United States resulting in substantial damage to  
19 property or injury to persons in the United States caused by use  
20 of bombs, missiles, shellfire, nuclear, radiological, chemical  
21 or biological means, or other weapons or overt paramilitary  
22 actions, or other conditions such as sabotage.

23 Section 3. Sections 3922(a), 3923(a)(7) and 3926(c) of Title  
24 18 are amended to read:

25 § 3922. Theft by deception.

26 (a) Offense defined.--A person is guilty of theft if he  
27 intentionally obtains or withholds property of another by  
28 deception. A person deceives if he intentionally:

29 (1) creates or reinforces a false impression, including  
30 false impressions as to law, value, intention or other state

1 of mind; but deception as to a person's intention to perform  
2 a promise shall not be inferred from the fact alone that he  
3 did not subsequently perform the promise;

4 (2) prevents another from acquiring information which  
5 would affect his judgment of a transaction; [or]

6 (3) fails to correct a false impression which the  
7 deceiver previously created or reinforced, or which the  
8 deceiver knows to be influencing another to whom he stands in  
9 a fiduciary or confidential relationship[.]; or

10 (4) fails to disclose a known lien, adverse claim or  
11 other legal impediment to the enjoyment of property which he  
12 transfers or encumbers in consideration for the property  
13 obtained, whether such impediment is or is not valid, or is  
14 or is not a matter of official record.

15 \* \* \*

16 § 3923. Theft by extortion.

17 (a) Offense defined.--A person is guilty of theft if he  
18 intentionally obtains or withholds property of another by  
19 threatening to:

20 \* \* \*

21 (7) inflict any other harm which would not benefit the  
22 actor, including, but not limited to, bodily injury.

23 \* \* \*

24 § 3926. Theft of services.

25 \* \* \*

26 (c) [Grading.--

27 (1) An offense under this section constitutes a summary  
28 offense when the value of the services obtained or diverted  
29 is less than \$50.

30 (2) When the value of the services obtained or diverted

1 is \$50 or more, the grading of the offense shall be as  
2 established in section 3903 (relating to grading of theft  
3 offenses).

4 (3)] Aggregation.--Amounts involved in theft of services  
5 committed pursuant to one scheme or course of conduct,  
6 whether from the same person or several persons, may be  
7 aggregated in determining the grade of the offense under  
8 section 3903 (relating to grading of theft offenses).

9 \* \* \*

10 Section 4. Sections 3929(b) and (g) and 3929.1(b), (g) and  
11 (h) of Title 18, amended November 30, 2004 (P.L.618, No.207),  
12 are amended and the sections are amended by adding subsections  
13 to read:

14 § 3929. Retail theft.

15 \* \* \*

16 [(b) Grading.--

17 (1) Retail theft constitutes a:

18 (i) Summary offense when the offense is a first  
19 offense and the value of the merchandise is less than  
20 \$150.

21 (ii) Misdemeanor of the second degree when the  
22 offense is a second offense and the value of the  
23 merchandise is less than \$150.

24 (iii) Misdemeanor of the first degree when the  
25 offense is a first or second offense and the value of the  
26 merchandise is \$150 or more.

27 (iv) Felony of the third degree when the offense is  
28 a third or subsequent offense, regardless of the value of  
29 the merchandise.

30 (v) Felony of the third degree when the amount

1 involved exceeds \$2,000 or if the merchandise involved is  
2 a firearm or a motor vehicle.

3 (1.1) Any person who is convicted under subsection (a)  
4 of retail theft of motor fuel may, in addition to any other  
5 penalty imposed, be sentenced as follows:

6 (i) For a first offense, to pay a fine of not less  
7 than \$100 nor more than \$250.

8 (ii) For a second offense, to pay a fine of not  
9 less than \$250 nor more than \$500.

10 (iii) For a third or subsequent offense, to pay a  
11 fine of not less than \$500, or the court may order the  
12 operating privilege of the person suspended for 30 days.

13 A copy of the order shall be transmitted to the  
14 Department of Transportation.

15 (2) Amounts involved in retail thefts committed pursuant  
16 to one scheme or course of conduct, whether from the same  
17 store or retail mercantile establishment or several stores or  
18 retail mercantile establishments, may be aggregated in  
19 determining the grade of the offense.]

20 (b.1) Additional penalties for theft of motor fuel.--Any  
21 person who is convicted under subsection (a) of retail theft of  
22 motor fuel may, in addition to any other penalty imposed, be  
23 sentenced as follows:

24 (1) For a first offense, to pay a fine of not less than  
25 \$100 nor more than \$250.

26 (2) For a second offense, to pay a fine of not less than  
27 \$250 nor more than \$500.

28 (3) For a third or subsequent offense, to pay a fine of  
29 not less than \$500, or the court may order the operating  
30 privilege of the person suspended for 30 days. A copy of the

1 order shall be transmitted to the Department of  
2 Transportation.

3 (b.2) Aggregation.--Amounts involved in retail thefts  
4 committed pursuant to one scheme or course of conduct, whether  
5 from the same store or retail mercantile establishment or  
6 several stores or retail mercantile establishments, may be  
7 aggregated in determining the grade of the offense under section  
8 3903 (relating to grading of theft offenses).

9 \* \* \*

10 [(g) Fingerprinting.--Prior to the commencement of trial or  
11 entry of plea of a defendant 16 years of age or older accused of  
12 the summary offense of retail theft, the issuing authority shall  
13 order the defendant to submit within five days of such order for  
14 fingerprinting by the municipal police of the jurisdiction in  
15 which the offense allegedly was committed or the State Police.  
16 Fingerprints so obtained shall be forwarded immediately to the  
17 Pennsylvania State Police for determination as to whether or not  
18 the defendant previously has been convicted of the offense of  
19 retail theft. The results of such determination shall be  
20 forwarded to the Police Department obtaining the fingerprints if  
21 such department is the prosecutor, or to the issuing authority  
22 if the prosecutor is other than a police officer. The issuing  
23 authority shall not proceed with the trial or plea in summary  
24 cases until in receipt of the determination made by the State  
25 Police. The magisterial district judge shall use the information  
26 obtained solely for the purpose of grading the offense pursuant  
27 to subsection (b).]

28 § 3929.1. Library theft.

29 \* \* \*

30 [(b) Grading.--

- 1 (1) Library theft constitutes a:
- 2 (i) Summary offense when the offense is a first
- 3 offense and the value of the material is less than \$150.
- 4 (ii) Misdemeanor of the second degree when the
- 5 offense is a second offense and the value of the material
- 6 is less than \$150.
- 7 (iii) Misdemeanor of the first degree when the
- 8 offense is a first or second offense and the value of the
- 9 material is \$150 or more.
- 10 (iv) Felony of the third degree when the offense is
- 11 a third or subsequent offense, regardless of the value of
- 12 the material.

13 (2) Amounts involved in library thefts committed

14 pursuant to one scheme or course of conduct, whether from the

15 same library or several libraries, may be aggregated in

16 determining the grade of the offense.]

17 (b.1) Aggregation.--Amounts involved in library thefts

18 committed pursuant to one scheme or course of conduct, whether

19 from the same library or several libraries, may be aggregated in

20 determining the grade of the offense under section 3903

21 (relating to grading of theft offenses).

22 \* \* \*

23 [(g) Prior offenses.--Prior to the commencement of trial or

24 entry of plea of a defendant 16 years of age or older accused of

25 the summary offense of library theft, the issuing authority

26 shall notify the Pennsylvania State Police for determination as

27 to whether or not the defendant previously has been convicted of

28 the offense of library theft. The results of such determination

29 shall be forwarded to the police department if the department is

30 the prosecutor, or to the issuing authority if the prosecutor is

1 other than a police officer. The issuing authority shall not  
2 proceed with the trial or plea in summary cases until in receipt  
3 of the determination made by the State Police. The magisterial  
4 district judge shall use the information obtained solely for the  
5 purpose of grading the offense pursuant to subsection (b).

6 (h) Fingerprinting.--Upon conviction the issuing authority  
7 shall order the defendant to submit within five days of such  
8 order for fingerprinting by the municipal police of the  
9 jurisdiction in which the offense allegedly was committed or the  
10 State Police.]

11 \* \* \*

12 Section 5. Section 3934(b) of Title 18 is repealed.

13 Section 6. This act shall take effect in 60 days.