

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1025

 Session of 2005

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

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 12, 2005

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 FOR retail theft ~~and~~, FOR library theft AND FOR THE OFFENSE <—
7 OF BAD CHECKS.

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

10 Section 1. Section 3901 of Title 18 of the Pennsylvania
11 Consolidated Statutes is amended by adding definitions to read:
12 § 3901. Definitions.

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

18 * * *

19 "Firearm." Any weapon that is designed to or may readily be

1 converted to expel any projectile by the action of an explosive
2 or the frame or receiver of any such weapon.

3 * * *

4 "Organized theft." An offense defined under this chapter
5 committed pursuant to one scheme or course of conduct where the
6 aggregate value of the property involved is \$150 or more BUT <—
7 DOES NOT EXCEED \$2,000 and the property was stolen from at least
8 three persons.

9 * * *

10 Section 2. Section 3903 of Title 18, amended November 23,
11 2004 (P.L.953, No.143), is amended to read:

12 § 3903. Grading of theft offenses.

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

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

21 (2) The property stolen is a firearm.

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

26 (4) The property stolen is any amount of anhydrous
27 ammonia.

28 (a.1) Felony of the third degree.--Except as provided in
29 subsection (a), theft constitutes a felony of the third degree
30 if the amount involved exceeds \$2,000, or if the property stolen

1 is an automobile, airplane, motorcycle, motorboat or other
2 motor-propelled vehicle, or in the case of theft by receiving
3 stolen property, if the receiver is in the business of buying or
4 selling stolen property.]

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

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

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

17 (2) The property stolen is a firearm.

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

22 (4) The property stolen is any amount of anhydrous
23 ammonia.

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

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

29 (1) the amount involved is ~~\$500 or more but~~ EXCEEDS
30 \$2,000 BUT IS less than \$100,000;

<—

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

3 (3) the offense is organized theft;

4 (4) the property stolen is an automobile, airplane,
5 motorcycle, motorboat or other motor-propelled vehicle; or

6 (5) in the case of theft by receiving stolen property,
7 if the receiver is in the business of buying or selling
8 stolen property or the property received, retained or
9 disposed of is a firearm.

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

15 (1) the amount involved was \$50 or more but less than
16 \$200 the offense constitutes a misdemeanor of the second
17 degree; or

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

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

22 (2) Misdemeanor of the second degree if the offense is a
23 second offense and the value of the property is less than
24 \$150.

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

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

30 (1) Except as otherwise specified in this section, value

1 means the market value of the property at the time and place
2 of the crime, or if such cannot be satisfactorily
3 ascertained, the cost of replacement of the property within a
4 reasonable time after the crime.

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

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

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

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

29 (c.1) Sentencing enhancement for theft of public funds or
30 theft in breach of a fiduciary duty.--Notwithstanding section

1 1103 (relating to sentence of imprisonment for felony), the
2 maximum term of imprisonment for an offense graded a felony
3 under this section may be increased by a term of imprisonment
4 not to exceed five years when the theft is from a political
5 subdivision, local authority or a public or private charitable
6 organization or when the theft constitutes a breach of fiduciary
7 duty.

8 (c.2) Fingerprinting.--

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

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

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

28 (4) The magisterial district ~~judges~~ JUDGE shall use the <—
29 information obtained solely for the purpose of grading the
30 offense pursuant to this chapter.

1 (d) Definitions.--As used in this section, the following
2 words and phrases shall have the meanings given to them in this
3 subsection:

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

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

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

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

25 ~~Section 3. Sections 3922(a), 3923(a)(7) and 3926(c) of Title~~ <—
26 ~~18 are amended to read:~~

27 ~~§ 3922. Theft by deception.~~

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

1 ~~(1) creates or reinforces a false impression, including~~
2 ~~false impressions as to law, value, intention or other state~~
3 ~~of mind; but deception as to a person's intention to perform~~
4 ~~a promise shall not be inferred from the fact alone that he~~
5 ~~did not subsequently perform the promise;~~

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

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

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

17 * * *

18 ~~§ 3923. Theft by extortion.~~

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

22 * * *

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

25 * * *

26 SECTION 3. SECTION 3926(C) OF TITLE 18 IS AMENDED TO READ: <—

27 § 3926. Theft of services.

28 * * *

29 (c) [Grading.--

30 (1) An offense under this section constitutes a summary

1 offense when the value of the services obtained or diverted
2 is less than \$50.

3 (2) When the value of the services obtained or diverted
4 is \$50 or more, the grading of the offense shall be as
5 established in section 3903 (relating to grading of theft
6 offenses).

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

12 * * *

13 Section 4. Sections 3929(b) and (g) and 3929.1(b), (g) and
14 (h) of Title 18, amended November 30, 2004 (P.L.1618, No.207),
15 are amended and the sections are amended by adding subsections
16 to read:

17 § 3929. Retail theft.

18 * * *

19 [(b) Grading.--

20 (1) Retail theft constitutes a:

21 (i) Summary offense when the offense is a first
22 offense and the value of the merchandise is less than
23 \$150.

24 (ii) Misdemeanor of the second degree when the
25 offense is a second offense and the value of the
26 merchandise is less than \$150.

27 (iii) Misdemeanor of the first degree when the
28 offense is a first or second offense and the value of the
29 merchandise is \$150 or more.

30 (iv) Felony of the third degree when the offense is

1 a third or subsequent offense, regardless of the value of
2 the merchandise.

3 (v) Felony of the third degree when the amount
4 involved exceeds \$2,000 or if the merchandise involved is
5 a firearm or a motor vehicle.

6 (1.1) Any person who is convicted under subsection (a)
7 of retail theft of motor fuel may, in addition to any other
8 penalty imposed, be sentenced as follows:

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

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

13 (iii) For a third or subsequent offense, to pay a
14 fine of not less than \$500, or the court may order the
15 operating privilege of the person suspended for 30 days.
16 A copy of the order shall be transmitted to the
17 Department of Transportation.

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

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

27 (1) For a first offense, to pay a fine of not less than
28 \$100 nor more than \$250.

29 (2) For a second offense, to pay a fine of not less than
30 \$250 nor more than \$500.

1 (3) For a third or subsequent offense, to pay a fine of
2 not less than \$500, or the court may order the operating
3 privilege of the person suspended for 30 days. A copy of the
4 order shall be transmitted to the Department of
5 Transportation.

6 (b.2) Aggregation.--Amounts involved in retail thefts
7 committed pursuant to one scheme or course of conduct, whether
8 from the same store or retail mercantile establishment or
9 several stores or retail mercantile establishments, may be
10 aggregated in determining the grade of the offense under section
11 3903 (relating to grading of theft offenses).

12 * * *

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

1 § 3929.1. Library theft.

2 * * *

3 [(b) Grading.--

4 (1) Library theft constitutes a:

5 (i) Summary offense when the offense is a first
6 offense and the value of the material is less than \$150.

7 (ii) Misdemeanor of the second degree when the
8 offense is a second offense and the value of the material
9 is less than \$150.

10 (iii) Misdemeanor of the first degree when the
11 offense is a first or second offense and the value of the
12 material is \$150 or more.

13 (iv) Felony of the third degree when the offense is
14 a third or subsequent offense, regardless of the value of
15 the material.

16 (2) Amounts involved in library thefts committed
17 pursuant to one scheme or course of conduct, whether from the
18 same library or several libraries, may be aggregated in
19 determining the grade of the offense.]

20 (b.1) Aggregation.--Amounts involved in library thefts
21 committed pursuant to one scheme or course of conduct, whether
22 from the same library or several libraries, may be aggregated in
23 determining the grade of the offense under section 3903
24 (relating to grading of theft offenses).

25 * * *

26 [(g) Prior offenses.--Prior to the commencement of trial or
27 entry of plea of a defendant 16 years of age or older accused of
28 the summary offense of library theft, the issuing authority
29 shall notify the Pennsylvania State Police for determination as
30 to whether or not the defendant previously has been convicted of

1 the offense of library theft. The results of such determination
2 shall be forwarded to the police department if the department is
3 the prosecutor, or to the issuing authority if the prosecutor is
4 other than a police officer. The issuing authority shall not
5 proceed with the trial or plea in summary cases until in receipt
6 of the determination made by the State Police. The magisterial
7 district judge shall use the information obtained solely for the
8 purpose of grading the offense pursuant to subsection (b).

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

14 * * *

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

16 SECTION 6. SECTION 4105 OF TITLE 18 IS AMENDED BY ADDING A <—
17 SUBSECTION TO READ:

18 § 4105. BAD CHECKS.

19 * * *

20 (C.1) FINGERPRINTING.--

21 (1) PRIOR TO THE COMMENCEMENT OF TRIAL OR ENTRY OF PLEA
22 OF A DEFENDANT 16 YEARS OF AGE OR OLDER ACCUSED OF A SUMMARY
23 OFFENSE UNDER THIS SECTION, THE ISSUING AUTHORITY SHALL ORDER
24 THE DEFENDANT TO SUBMIT WITHIN FIVE DAYS OF SUCH ORDER FOR
25 FINGERPRINTING BY THE MUNICIPAL POLICE OF THE JURISDICTION IN
26 WHICH THE OFFENSE ALLEGEDLY WAS COMMITTED OR THE PENNSYLVANIA
27 STATE POLICE.

28 (2) FINGERPRINTS OBTAINED UNDER PARAGRAPH (1) BY
29 MUNICIPAL POLICE SHALL BE FORWARDED IMMEDIATELY TO THE
30 PENNSYLVANIA STATE POLICE FOR DETERMINATION AS TO WHETHER OR

1 NOT THE DEFENDANT PREVIOUSLY HAS BEEN CONVICTED OF AN OFFENSE
2 UNDER THIS SECTION. THE RESULTS OF SUCH DETERMINATION SHALL
3 BE FORWARDED TO THE POLICE DEPARTMENT OBTAINING THE
4 FINGERPRINTS IF SUCH DEPARTMENT IS THE PROSECUTOR, OR TO THE
5 ISSUING AUTHORITY IF THE PROSECUTOR IS OTHER THAN A POLICE
6 OFFICER.

7 (3) THE ISSUING AUTHORITY SHALL NOT PROCEED WITH THE
8 TRIAL OR PLEA IN SUMMARY CASES UNTIL IN RECEIPT OF THE
9 DETERMINATION MADE BY THE PENNSYLVANIA STATE POLICE.

10 (4) THE MAGISTERIAL DISTRICT JUDGE SHALL USE THE
11 INFORMATION OBTAINED SOLELY FOR THE PURPOSE OF GRADING THE
12 OFFENSE PURSUANT TO THIS SECTION.

13 * * *

14 Section ~~6~~ 7. This act shall take effect in 60 days.

<—