

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 998 Session of  
2007

---

INTRODUCED BY GERGELY, BIANCUCCI, CREIGHTON, GEIST, GEORGE,  
HARRIS, HESS, KIRKLAND, KOTIK, KULA, MAHONEY, MENSCH,  
O'NEILL, PALLONE, PYLE, J. TAYLOR, THOMAS, WALKO, YOUNGBLOOD,  
GOODMAN, KORTZ, STURLA AND SIPTROTH, APRIL 2, 2007

---

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 2, 2007

---

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, further providing for theft of motor fuel.

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

6 Section 1. Section 3929(b)(1.1) and (c) of Title 18 of the  
7 Pennsylvania Consolidated Statutes are amended to read:

8 § 3929. Retail theft.

9 \* \* \*

10 (b) Grading.--

11 \* \* \*

12 (1.1) Any person who is convicted under subsection (a)  
13 of retail theft of motor fuel may, in addition to any other  
14 penalty imposed, be sentenced as follows:

15 (i) For a first offense, to pay a fine of not less  
16 than \$100 nor more than \$250[.], and the court shall  
17 order the operating privilege of the person suspended for

1           30 days.

2           (ii) For a second offense, to pay a fine of not less  
3 than \$250 nor more than \$500[.], and the court shall  
4 order the operating privilege of the person suspended for  
5 60 days.

6           (iii) For a third or subsequent offense, to pay a  
7 fine of not less than \$500, [or the court may] and the  
8 court shall order the operating privilege of the person  
9 suspended for [30 days] six months. [A copy of the order  
10 shall be transmitted to the Department of  
11 Transportation.]

12 A copy of the order suspending a person's operating privilege  
13 shall be transmitted to the Department of Transportation.

14           \* \* \*

15           (c) Presumptions.--

16           (1) Any person intentionally concealing unpurchased  
17 property of any store or other mercantile establishment,  
18 either on the premises or outside the premises of such store,  
19 shall be prima facie presumed to have so concealed such  
20 property with the intention of depriving the merchant of the  
21 possession, use or benefit of such merchandise without paying  
22 the full retail value thereof within the meaning of  
23 subsection (a), and the finding of such unpurchased property  
24 concealed, upon the person or among the belongings of such  
25 person, shall be prima facie evidence of intentional  
26 concealment, and, if such person conceals, or causes to be  
27 concealed, such unpurchased property, upon the person or  
28 among the belongings of another, such fact shall also be  
29 prima facie evidence of intentional concealment on the part  
30 of the person so concealing such property.

1           (2) In addition to any presumption applying under  
2 paragraph (1), the following shall apply to the retail theft  
3 of motor fuel:

4           (i) Any person driving off of the premises of a  
5 store after obtaining motor fuel, without paying the full  
6 retail value of the motor fuel within the meaning of  
7 subsection (a), shall be prima facie presumed to have  
8 taken the motor fuel with the intention of depriving the  
9 merchant of the possession, use or benefit of the motor  
10 fuel without paying the full retail value of the motor  
11 fuel within the meaning of subsection (a).

12           (ii) The registered owner, lessee or renter of a  
13 vehicle that was involved in the retail theft of motor  
14 fuel shall be prima facie presumed to have taken the  
15 motor fuel with the intention of depriving the merchant  
16 of the possession, use or benefit of the motor fuel  
17 without paying the full retail value of the motor fuel  
18 within the meaning of subsection (a).

19       \* \* \*

20       Section 2. Section 8308(c) of Title 42 is amended and the  
21 section is amended by adding a subsection to read:

22 § 8308. Damages in actions on retail theft.

23       \* \* \*

24       (a.1) Information involving retail theft of motor fuel.--  
25 Upon provision of the registration plate number of a vehicle  
26 that was involved in the retail theft of motor fuel, the  
27 plaintiff shall have the right to obtain from the local police  
28 or, if there is no local police department, the Pennsylvania  
29 State Police, the name and address of the registered owner,  
30 lessee or renter of the vehicle that was involved in order to

1 send a notice to the defendant under subsection (d) or for use  
2 in a civil action under this section against the registered  
3 owner, lessee or renter of the vehicle or another person  
4 involved in the retail theft of the motor fuel. Any use of the  
5 information by the plaintiff not provided for under this  
6 subsection shall constitute a misdemeanor of the first degree.

7 \* \* \*

8 (c) Criminal disposition.--Criminal prosecution under 18  
9 Pa.C.S. § 3929 is not a prerequisite to the applicability of  
10 this section. The initiation, maintenance or discontinuance of a  
11 civil action under this section shall not effect the initiation,  
12 maintenance or discontinuance of a criminal prosecution under 18  
13 Pa.C.S. § 3929.

14 \* \* \*

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