

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 731 Session of 2013

INTRODUCED BY RAFFERTY, MENSCH, VULAKOVICH, YUDICHAK, WAUGH, STACK, SOLOBAY, ALLOWAY, YAW AND BOSCOLA, MARCH 26, 2013

SENATOR PILEGGI, RULES AND EXECUTIVE NOMINATIONS, SENATE AMENDMENTS TO HOUSE AMENDMENTS, IN SENATE, DECEMBER 10, 2013

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for burglary, for
3 robbery, for grading of theft offenses and for the offense of
4 retail theft.

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

7 Section 1. Sections 3502(c)(2), 3701(b) and ~~3903~~ 3903(A) AND <--
8 (A.2) of Title 18 of the Pennsylvania Consolidated Statutes are
9 amended to read:

10 § 3502. Burglary.

11 * * *

12 (c) Grading.--

13 * * *

14 (2) [An] As follows:

15 (i) Except under subparagraph (ii), an offense under
16 subsection (a)(4) is a felony of the second degree.

17 (ii) If the actor's intent upon entering the
18 building, structure or portion under subparagraph (i) is

1 to commit theft of a controlled substance or designer
2 drug as those terms are defined in section 2 of the act
3 of April 14, 1972 (P.L.233, No.64), known as The
4 Controlled Substance, Drug, Device and Cosmetic Act,
5 burglary is a felony of the first degree.

6 * * *

7 § 3701. Robbery.

8 * * *

9 (b) Grading.--[Robbery]

10 (1) Except as provided under paragraph (2), robbery
11 under subsection (a) (1) (iv) and (vi) is a felony of the
12 second degree; robbery under subsection (a) (1) (v) is a felony
13 of the third degree; otherwise, it is a felony of the first
14 degree.

15 (2) If the object of a robbery under paragraph (1) is a
16 controlled substance or designer drug as those terms are
17 defined in section 2 of the act of April 14, 1972 (P.L.233,
18 No.64), known as The Controlled Substance, Drug, Device and
19 Cosmetic Act, robbery is a felony of the first degree.

20 § 3903. Grading of theft offenses.

21 (a) Felony of the second degree.--Theft constitutes a felony
22 of the second degree if:

23 (1) The offense is committed during a manmade disaster,
24 a natural disaster or a war-caused disaster and constitutes a
25 violation of section 3921 (relating to theft by unlawful
26 taking or disposition), 3925 (relating to receiving stolen
27 property), 3928 (relating to unauthorized use of automobiles
28 and other vehicles) or 3929 (relating to retail theft).

29 (2) The property stolen is a firearm.

30 (3) In the case of theft by receiving stolen property,

1 the property received, retained or disposed of is a firearm.

2 (4) The property stolen is any amount of anhydrous
3 ammonia.

4 ~~(5) The property stolen is a controlled substance or <--~~
5 ~~designer drug as those terms are defined in section 2 of the~~
6 ~~act of April 14, 1972 (P.L.233, No.64), known as The~~
7 ~~Controlled Substance, Drug, Device and Cosmetic Act.~~

8 ~~(6) (5) The amount involved is \$100,000 or more but less <--~~
9 ~~than \$500,000.~~

10 ~~(a.1) Felony of the third degree. Except as provided in <--~~
11 ~~subsection (a) or (a.2), theft constitutes a felony of the third~~
12 ~~degree if the amount involved exceeds \$2,000, or if the property~~
13 ~~stolen is an automobile, airplane, motorcycle, motorboat or~~
14 ~~other motor propelled vehicle, or in the case of theft by~~
15 ~~receiving stolen property, if the receiver is in the business of~~
16 ~~buying or selling stolen property.~~

17 * * * <--

18 (a.2) Felony of the first degree.--[Theft] Except as
19 provided in subsections (a) and (a.1), theft constitutes a
20 felony of the first degree if[,]:

21 (1) in the case of theft by receiving stolen property,
22 the property received, retained or disposed of is a firearm
23 and the receiver is in the business of buying or selling
24 stolen property[.]; or

25 (2) the amount involved is \$500,000 or more.

26 ~~(b) Other grades. Theft not within subsection (a), (a.1) or <--~~
27 ~~(a.2), constitutes a misdemeanor of the first degree, except~~
28 ~~that if the property was not taken from the person or by threat,~~
29 ~~or in breach of fiduciary obligation, and:~~

30 ~~(1) the amount involved was \$50 or more but less than~~

1 ~~\$200 the offense constitutes a misdemeanor of the second~~
2 ~~degree; or~~

3 ~~(2) the amount involved was less than \$50 the offense~~
4 ~~constitutes a misdemeanor of the third degree.~~

5 ~~(c) Valuation. The amount involved in a theft shall be~~
6 ~~ascertained as follows:~~

7 ~~(1) Except as otherwise specified in this section, value~~
8 ~~means the market value of the property at the time and place~~
9 ~~of the crime, or if such cannot be satisfactorily~~
10 ~~ascertained, the cost of replacement of the property within a~~
11 ~~reasonable time after the crime.~~

12 ~~(2) Whether or not they have been issued or delivered,~~
13 ~~certain written instruments, not including those having a~~
14 ~~readily ascertainable market value such as some public and~~
15 ~~corporate bonds and securities, shall be evaluated as~~
16 ~~follows:~~

17 ~~(i) The value of an instrument constituting an~~
18 ~~evidence of debt, such as a check, draft or promissory~~
19 ~~note, shall be deemed the amount due or collectible~~
20 ~~thereon or thereby, such figure ordinarily being the face~~
21 ~~amount of the indebtedness less any portion thereof which~~
22 ~~has been satisfied.~~

23 ~~(ii) The value of any other instrument which~~
24 ~~creates, releases, discharges or otherwise affects any~~
25 ~~valuable legal right, privilege or obligation shall be~~
26 ~~deemed the greatest amount of economic loss which the~~
27 ~~owner of the instrument might reasonably suffer by virtue~~
28 ~~of the loss of the instrument.~~

29 ~~(3) When the value of property cannot be satisfactorily~~
30 ~~ascertained pursuant to the standards set forth in paragraphs~~

1 ~~(1) and (2) of this subsection its value shall be deemed to~~
2 ~~be an amount less than \$50. Amounts involved in thefts~~
3 ~~committed pursuant to one scheme or course of conduct,~~
4 ~~whether from the same person or several persons, may be~~
5 ~~aggregated in determining the grade of the offense.~~

6 ~~(c.1) Sentencing enhancement for theft of public funds or~~
7 ~~theft in breach of a fiduciary duty. Notwithstanding section~~
8 ~~1103 (relating to sentence of imprisonment for felony), the~~
9 ~~maximum term of imprisonment for an offense graded under this~~
10 ~~section may be increased by a term of imprisonment of up to five~~
11 ~~years when the theft is from a political subdivision, local~~
12 ~~authority or public or private charitable organization or when~~
13 ~~the theft constitutes a breach of fiduciary duty.~~

14 ~~(d) Definitions. As used in this section, the following~~
15 ~~words and phrases shall have the meanings given to them in this~~
16 ~~subsection:~~

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

20 ~~"Manmade disaster." Any industrial, nuclear or~~
21 ~~transportation accident, explosion, conflagration, power~~
22 ~~failure, natural resource shortage or other condition, except~~
23 ~~enemy action, resulting from manmade causes, such as oil spills~~
24 ~~and other injurious environmental contamination, which threatens~~
25 ~~or causes substantial damage to property, human suffering,~~
26 ~~hardship or loss of life.~~

27 ~~"Natural disaster." Any hurricane, tornado, storm, flood,~~
28 ~~high water, wind driven water, tidal wave, earthquake,~~
29 ~~landslide, mudslide, snowstorm, drought, fire, explosion or~~
30 ~~other catastrophe which results in substantial damage to~~

1 ~~property, hardship, suffering or possible loss of life.~~
2 ~~"War caused disaster." Any condition following an attack~~
3 ~~upon the United States resulting in substantial damage to~~
4 ~~property or injury to persons in the United States caused by use~~
5 ~~of bombs, missiles, shellfire, nuclear, radiological, chemical~~
6 ~~or biological means, or other weapons or overt paramilitary~~
7 ~~actions, or other conditions such as sabotage.~~

8 * * *

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9 Section 2. Section 3929(b)(1)(v) of Title 18 is amended and
10 the section is amended by adding a subsection to read:

11 § 3929. Retail theft.

12 * * *

13 (b) Grading.--

14 (1) Retail theft constitutes a:

15 * * *

16 (v) Felony of the third degree when the amount
17 involved exceeds [\$2,000] \$1,000 or if the merchandise
18 involved is a firearm or a motor vehicle.

19 * * *

20 (b.1) Calculation of prior offenses.--For the purposes of
21 this section, in determining whether an offense is a first,
22 second, third or subsequent offense, the court shall include a
23 conviction, acceptance of accelerated rehabilitative disposition
24 or other form of preliminary disposition, occurring before the
25 sentencing on the present violation, for an offense under this
26 section, an offense substantially similar to an offense under
27 this section or under the prior laws of this Commonwealth or a
28 similar offense under the statutes of any other state or of the
29 United States.

30 * * *

1 Section 3. The amendment or addition of 18 Pa.C.S. §§
2 3502(c)(2), 3701(b), 3903 and 3929(b)(1)(v) shall apply to
3 offenses committed on or after the effective date of this
4 section.

5 Section 4. The amendment of 18 Pa.C.S. §§ 3903 and 3929(b.1)
6 shall apply to sentences imposed on or after the effective date
7 of this section.

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