

No. 1995-27

AN ACT

SB 729

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the offense of possessing instruments of crime, for aggravated assault and for cruelty to animals.

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

Section 1. Sections 907 and 2702 of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 907. Possessing instruments of crime.

(a) Criminal instruments generally.—A person commits a misdemeanor of the first degree if he possesses any instrument of crime with intent to employ it criminally.

(b) Possession of weapon.—A person commits a misdemeanor of the first degree if he possesses a firearm or other weapon concealed upon his person with intent to employ it criminally.

(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Instrument of crime.”

(1) Anything specially made or specially adapted for criminal use; or

(2) anything [commonly] used for criminal purposes and possessed by the actor under circumstances not manifestly appropriate for lawful uses it may have.

“Weapon.” Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term includes a firearm which is not loaded or lacks a clip or other component to render it immediately operable, and components which can readily be assembled into a weapon.

§ 2702. Aggravated assault.

(a) Offense defined.—A person is guilty of aggravated assault if he:

(1) attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;

(2) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to a *judge, district justice, sheriff, deputy sheriff, constable, deputy constable, psychiatric aide*, police officer, firefighter, county adult probation or parole officer, county juvenile probation or parole officer or an agent of the Pennsylvania Board of Probation and Parole in the performance of duty or to an employee of an agency, company or other entity engaged in public transportation, while in the

performance of duty *or to an employee of a county jail, prison, correctional institution, juvenile detention center or any facility to which the person has been ordered by the court pursuant to a petition alleging delinquency under 42 Pa.C.S. Ch. 63 (relating to juvenile matters);*

(3) attempts to cause or intentionally or knowingly causes bodily injury to a *judge, district justice, sheriff, deputy sheriff, constable, deputy constable, psychiatric aide,* police officer, firefighter or county adult probation or parole officer, county juvenile probation or parole officer or an agent of the Pennsylvania Board of Probation and Parole in the performance of duty *or to an employee of a county jail, prison, correctional institution, juvenile detention center or any facility to which the person has been ordered by the court pursuant to a petition alleging delinquency under 42 Pa.C.S. Ch. 63;*

(4) attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon; or

(5) attempts to cause or intentionally or knowingly causes bodily injury to a teaching staff member, school board member, other employee or student of any elementary or secondary publicly-funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school while acting in the scope of his or her employment or because of his or her employment relationship to the school.

(b) Grading.—Aggravated assault under subsection (a)(1) and (2) is a felony of the first degree. Aggravated assault under subsection (a)(3), (4) and (5) is a felony of the second degree.

Section 2. Section 5511(a) and (q) of Title 18 are amended and the section is amended by adding a subsection to read:

§ 5511. Cruelty to animals.

(a) Killing, maiming or poisoning domestic animals or zoo animals, etc.—

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(i) Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

(iii) *Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.*

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$500.

(2) A person commits a felony of the third degree if he willfully and maliciously:

(i) Kills, maims or disfigures any zoo animal in captivity.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.

(2.1) (i) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

(ii) Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$1,000 or to imprisonment for not more than two years, or both. A subsequent conviction under this paragraph shall be a felony of the third degree. This paragraph shall apply to dogs and cats only.

(iii) The killing of a dog or cat by the owner of that animal is not malicious if it is accomplished in accordance with the act of December 22, 1983 (P.L.303, No.83), referred to as the Animal Destruction Method Authorization Law.

(3) This subsection shall not apply to:

(i) the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;

(ii) the killing of any animal or fowl pursuant to the act of June 3, 1937 (P.L.1225, No.316), known as The Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder; or

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

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(m.1) Fine for summary offense.—In addition to any other penalty provided by law, a person convicted of a summary offense under this section shall pay a fine of not less than \$50 nor more than \$750 or to imprisonment for not more than 90 days, or both.

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(q) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Animal fighting.” Fighting or baiting any bull, bear, dog, cock or other creature.

“Audibly impaired.” *The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.*

“Blind.” *Having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.*

“Deaf.” *Totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.*

“Domestic animal.” Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

“Domestic fowl.” Any avis raised for food, hobby or sport.

“Normal agricultural operation.” Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.

“Physically limited.” *Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.*

“Zoo animal.” Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

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

APPROVED—The 6th day of July, A.D. 1995.

THOMAS J. RIDGE