

No. 1984-134

AN ACT

HB 1799

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for prohibited offensive weapons, for the offense, venue and grading of bad check offenses and for reimbursement liability.

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

Section 1. The definition of "peace officer" in section 501 of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 501. Definitions.

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

* * *

"Peace officer." Any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses, or any person on active State duty pursuant to section 311 of the act of May 27, 1949 (P.L.1903, No.568), known as "The Military Code of 1949." *The term "peace officer" shall also include any member of any park police department of any county of the third class.*

* * *

Section 2. Section 908 of Title 18 is amended to read:
§ 908. Prohibited offensive weapons.

(a) Offense defined.—A person commits a misdemeanor of the first degree if, except as authorized by law, he makes repairs, sells, or otherwise deals in, uses, or possesses any offensive weapon.

(b) Exceptions.—

(1) It is a defense under this section for the defendant to prove by a preponderance of evidence that he possessed or dealt with the weapon solely as a curio or in a dramatic performance, *or that, with the exception of a bomb, grenade or incendiary device, he complied with the National Firearms Act (26 U.S.C. § 5801 et seq.),* or that he possessed it briefly in consequence of having found it or taken it from an aggressor, or under circumstances similarly negating any intent or likelihood that the weapon would be used unlawfully.

(2) This section does not apply to police forensic firearms experts or police forensic firearms laboratories. Also exempt from this section are forensic firearms experts or forensic firearms laboratories operating in the ordinary course of business and engaged in lawful operation who notify in

writing, on an annual basis, the chief or head of any police force or police department of a city, and, elsewhere, the sheriff of a county in which they are located, of the possession, type and use of offensive weapons.

(c) Definition.—As used in this section “offensive weapon” means any bomb, grenade, machine gun, sawed-off shotgun, firearm specially made or specially adapted for concealment or silent discharge, any blackjack, sandbag, metal knuckles, dagger, knife, razor or cutting instrument, the blade of which is exposed in an automatic way by switch, push-button, spring mechanism, or otherwise, or other implement for the infliction of serious bodily injury which serves no common lawful purpose.

(d) Exemptions.—The use and possession of blackjacks by the following persons in the course of their duties are exempt from this section:

(1) Police officers, as defined by and who meet the requirements of the act of June 18, 1974 (P.L.359, No.120), referred to as the Municipal Police Education and Training Law.

(2) Police officers of first class cities who have successfully completed training which is substantially equivalent to the program under the Municipal Police Education and Training Law.

(3) Pennsylvania State Police officers.

(4) Sheriffs and deputy sheriffs of the various counties who have satisfactorily met the requirements of the Municipal Police Education and Training Law.

(5) Police officers employed by the Commonwealth who have satisfactorily met the requirements of the Municipal Police Education and Training Law.

Section 3. Section 4105 of Title 18 is amended to read:

§ 4105. Bad checks.

(a) Offense defined.—

(1) A person commits an offense if he issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) *A person commits an offense if he, knowing that it will not be honored by the drawee, issues or passes a check or similar sight order for the payment of money when the drawee is located within this Commonwealth. A violation of this paragraph shall occur without regard to whether the location of the issuance or passing of the check or similar sight order is within or outside of this Commonwealth. It shall be no defense to a violation of this section that some or all of the acts constituting the offense occurred outside of this Commonwealth.*

(b) Presumption.—For the purposes of this section as well as in any prosecution for theft committed by means of a bad check, an issuer is presumed to know that the check or order (other than a post-dated check or order) would not be paid, if:

(1) the issuer had no account with the drawee at the time the check or order was issued; or

(2) payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within ten days after receiving notice of that refusal.

(c) Grading.—An offense under this section is a misdemeanor of the second degree if the amount of the check or order exceeds ~~[\$200]~~ \$500 or if it is a third or subsequent offense within a five-year period; otherwise it is a summary offense.

(d) Venue.—An offense under subsection (a) may be deemed to have been committed at either the place where the defendant issues or passes the bad check or similar sight order for the payment of money or the place where the financial institution upon which the bad check or similar sight order for the payment of money was drawn is located.

(e) Costs.—Upon conviction under this section the sentence shall include an order for the issuer or passer to reimburse the payee or such other party as the circumstances may indicate for:

(1) The face amount of the check.

(2) Interest at the legal rate on the face amount of the check from the date of dishonor by the drawee.

(3) A service charge not to exceed \$20 if written notice of the service charge was conspicuously displayed on the payee's premises when the check was issued.

Section 4. This act shall take effect in 90 days.

APPROVED—The 6th day of July, A. D. 1984.

DICK THORNBURGH