

No. 1999-59

AN ACT

SB 167

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for possession of firearm or other dangerous weapon in court facility, for terroristic threats, for harassment and stalking, for grading of theft offenses, for harassment and stalking by communication or address and weapons or implements for escape and for persons not to possess, use, manufacture, control, sell or transfer firearms; providing for possession of firearms with altered manufacturer's number; further providing for the sale or transfer of firearms and for registration of firearms; providing for locking device for firearms; and limiting certain lawsuits.

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

Section 1. Section 913(e) of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 913. Possession of firearm or other dangerous weapon in court facility.

* * *

(e) Facilities for checking firearms *or other dangerous weapons*.—Each county shall make available *at or within the building containing a court facility* by July 1, [1996] 2002, lockers or similar facilities at no charge or cost for the temporary checking of firearms by persons carrying firearms under section 6106(b) or 6109 *or for the checking of other dangerous weapons that are not otherwise prohibited by law. Any individual checking a firearm, dangerous weapon or an item deemed to be a dangerous weapon at a court facility must be issued a receipt.* Notice of the location of the facility shall be posted as required under subsection (d).

* * *

Section 2. Section 2706(a) of Title 18 is amended and the section is amended by adding subsections to read:

§ 2706. Terroristic threats.

(a) Offense defined.—A person [is guilty of a misdemeanor of the first degree] *commits the crime of terroristic threats* if [he threatens to] *the person communicates, either directly or indirectly, a threat to:*

(1) commit any crime of violence with intent to terrorize another [or to];

(2) cause evacuation of a building, place of assembly[,] or facility of public transportation[,]; or

(3) otherwise [to] cause serious public inconvenience, or [in] *cause terror or serious public inconvenience with reckless disregard of the risk of causing such terror or inconvenience.*

* * *

(d) *Grading.*—An offense under subsection (a) constitutes a misdemeanor of the first degree.

(e) *Definition.*—As used in this section, the term “communicates” means conveys in person or by written or electronic means, including telephone, electronic mail, Internet, facsimile, telex and similar transmissions.

Section 3. Sections 2709(a) and (f) "course of conduct," 3903(a) and (a.1), 5122 and 5504 of Title 18 are amended to read:

§ 2709. Harassment and stalking.

(a) *Harassment.*—A person commits the crime of harassment when, with intent to harass, annoy or alarm another, *the person*:

(1) [he] strikes, shoves, kicks or otherwise subjects *[him] the other person* to physical contact, or attempts or threatens to do the same; *[or]*

(2) [he] follows *[a] the other* person in or about a public place or places; or

(3) [he] engages in a course of conduct or repeatedly commits acts which *[alarm or seriously annoy such other person and which]* serve no legitimate purpose.

* * *

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

“Course of conduct.” A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. *The term includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, either in person or anonymously.*

* * *

§ 3903. Grading of theft offenses.

(a) *Felony of the second degree.*—Theft constitutes a felony of the second degree if *[the]*:

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

(2) *The property stolen is a firearm.*

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

(a.1) *Felony of the third degree.*—Except as provided in subsection (a), theft constitutes a felony of the third degree if the amount involved exceeds \$2,000, or if the property stolen is *[a firearm,] an* automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle, or in the case of theft by receiving stolen property, if the receiver is in the business of buying or selling stolen property.

* * *

§ 5122. Weapons or implements for escape.

(a) Offenses defined.—

(1) A person commits a misdemeanor of the first degree if he unlawfully introduces within a detention facility, correctional institution or mental hospital, or unlawfully provides an inmate thereof with any weapon, tool, implement, or other thing which may be used for escape.

(2) An inmate commits a misdemeanor of the first degree if he unlawfully procures, makes or otherwise provides himself with, or unlawfully has in his possession or under his control, any weapon, *tool, implement or other thing which may be used for escape.*

[(3) An inmate commits a misdemeanor of the second degree if he unlawfully procures, makes or otherwise provides himself with, or unlawfully has in his possession or under his control, any tool, implement or other thing which may be used for escape.]

(b) Definitions.—

(1) As used in this section, the word "unlawfully" means surreptitiously or contrary to law, regulation or order of the detaining authority.

(2) As used in this section, the word "weapon" means any implement readily capable of lethal use and shall include any firearm, *ammunition*, knife, dagger, razor, other cutting or stabbing implement or club, including any item which has been modified or adopted so that it can be used as a firearm, *ammunition*, knife, dagger, razor, other cutting or stabbing implement, or club. The word "firearm" includes an unloaded firearm and the unassembled components of a firearm.

§ 5504. Harassment and stalking by communication or address.

(a) [Offense defined] *Harassment by communication or address.*—A person commits [a misdemeanor of the third degree if] *the crime of harassment by communication or address when*, with intent to harass, annoy or alarm another, [he] *the person*:

(1) [makes a telephone call without intent of legitimate communication or addresses] *communicates* to or about such other person any lewd, lascivious, threatening or [indecent] *obscene* words [or], language [or anonymously telephones another person repeatedly], *drawings or caricatures*; or

(2) [makes repeated communications anonymously or at extremely inconvenient hours, or in offensively coarse language.] *communicates repeatedly in an anonymous manner*;

(3) *communicates repeatedly at extremely inconvenient hours; or*

(4) *communicates repeatedly in a manner not covered by paragraph (2) or (3).*

(a.1) *Stalking by communication or address.*—A person commits the crime of stalking by communication or address when the person engages in a course of conduct or repeatedly communicates to another under circumstances which demonstrate or communicate either of the following:

(1) *An intent to place such other person in reasonable fear of bodily injury.*

(2) *An intent to cause substantial emotional distress to such other person.*

(b) *Venue.—Any offense committed under [paragraph (a)(1) of this section] subsection (a) or (a.1) may be deemed to have been committed at either the place at which the [telephone call or calls] communication or communications were made or at the place where the [telephone call or calls] communication or communications were received.*

(c) *Grading.—*

(1) *An offense under subsection (a) shall constitute a misdemeanor of the third degree.*

(2) *Except as set forth under paragraph (3) or (4), an offense under subsection (a.1) shall constitute a misdemeanor of the first degree.*

(3) *A second or subsequent offense under subsection (a.1) shall constitute a felony of the third degree.*

(4) *A first offense under subsection (a.1) if the person has been previously convicted of any crime of violence involving this same victim, family or household members, including, but not limited to, a violation of section 2701 (relating to simple assault), 2702 (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2709 (relating to harassment and stalking), 2901 (relating to kidnapping), 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse) or 3124.1 (relating to sexual assault), an order issued under section 4954 (relating to protective orders) or an order issued under 23 Pa.C.S. § 6108 (relating to relief), shall constitute a felony of the third degree.*

(d) *False reports.—A person who knowingly gives false information to any law enforcement officer with the intent to implicate another under this section commits an offense under section 4906 (relating to false reports to law enforcement authorities).*

(e) *Application of section.—This section shall not apply to conduct by a party to a labor dispute as defined in the act of June 2, 1937 (P.L.1198, No.308), known as the Labor Anti-Injunction Act, or to any constitutionally protected activity.*

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

“Communicates.” Conveys, without intent of legitimate communication or address, by written or electronic means, including telephone, electronic mail, Internet, facsimile, telex and similar transmissions.

“Course of conduct.” A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

"Emotional distress." A temporary or permanent state of mental anguish.

"Family or household member." Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

Section 4. Section 6105(c)(2) of Title 18 is amended and the section is amended by adding a subsection to read:

§ 6105. Persons not to possess, use, manufacture, control, sell or transfer firearms.

* * *

(a.1) **Penalty.**—Any person convicted of a felony enumerated under subsection (b) or a felony under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or any equivalent Federal statute or equivalent statute of any other state, who violates subsection (a) commits a felony of the second degree.

* * *

(c) Other persons.—In addition to any person who has been convicted of any offense listed under subsection (b), the following persons shall be subject to the prohibition of subsection (a):

* * *

(2) A person who has been convicted of an offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or any equivalent Federal statute or equivalent statute of any other state, that may be punishable by a term of imprisonment exceeding two years.

* * *

Section 5. Title 18 is amended by adding a section to read:

§ 6110.2. Possession of firearm with altered manufacturer's number.

(a) **General rule.**—No person shall possess a firearm which has had the manufacturer's number integral to the frame or receiver altered, changed, removed or obliterated.

(b) **Penalty.**—A person who violates this section commits a misdemeanor of the first degree.

(c) **Definition.**—As used in this section, the term "firearm" shall have the same meaning as that term is defined in section 6105(i) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), except that the term shall not include antique firearms as defined in section 6118 (relating to antique firearms).

Section 6. Section 6111 of Title 18 is amended by adding a subsection to read:

§ 6111. Sale or transfer of firearms.

* * *

(j) *Exemption.—The provisions of subsections (a) and (b) shall not apply to sales of firearms as defined in section 6102 between Federal firearms licensees.*

Section 7. Section 6120 of Title 18 is amended to read:

§ 6120. Limitation on [municipal] the regulation of firearms and ammunition.

(a) General rule.—No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.

(a.1) *No right of action.—*

(1) *No political subdivision may bring or maintain an action at law or in equity against any firearms or ammunition manufacturer, trade association or dealer for damages, abatement, injunctive relief or any other relief or remedy resulting from or relating to either the lawful design or manufacture of firearms or ammunition or the lawful marketing or sale of firearms or ammunition to the public.*

(2) *Nothing in this subsection shall be construed to prohibit a political subdivision from bringing or maintaining an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by the political subdivision.*

(b) [Definition.—For the purposes of this section, the term “firearms” has the meaning given in section 5515 (relating to prohibiting of paramilitary training) but shall not include air rifles as defined in section 6304 (relating to sale and use of air rifles).] Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Dealer.” The term shall include any person engaged in the business of selling at wholesale or retail a firearm or ammunition.

“Firearms.” This term shall have the meaning given to it in section 5515 (relating to prohibiting of paramilitary training) but shall not include air rifles as that term is defined in section 6304 (relating to sale and use of air rifles).

“Political subdivision.” The term shall include any home rule charter municipality, county, city, borough, incorporated town, township or school district.

Section 8. Title 18 is amended by adding a section to read:

§ 6142. Locking device for firearms.

(a) Offense defined.—It shall be unlawful for any licensee to sell, deliver or transfer any firearm as defined in section 6102 (relating to definitions), other than an antique firearm as defined in section 6118 (relating to antique firearms), to any other person, other than another licensee, unless the transferee is provided with or purchases a locking

device for that firearm or the design of the firearm incorporates a locking device.

(b) *Exceptions.—Firearms for transfer to or possession by any law enforcement officer employed by any Federal, State or local government entity or rail police employed and certified by a rail carrier as a police officer are not subject to the provisions of this section.*

(c) *Penalties.—A violation of the provisions of this section shall be a summary offense.*

(d) *Good faith compliance.—A licensee who in good faith complies with this section shall not be civilly liable as a result of such compliance with this section, except for any acts or omissions intentionally designed to harm or for grossly negligent acts or omissions which result in harm.*

(e) *Admissibility of evidence.—¹A transferee's purchase or receipt of a locking device in conjunction with the purchase of a firearm pursuant to this section shall not be admissible as evidence in any civil action brought against the transferee.*

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

"Licensee." Any licensed manufacturer, importer or dealer of firearms.

"Locking device." Either of the following:

(1) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device; or

(2) a device that is incorporated into the design of a firearm and that is designed to prevent the operation of the firearm by anyone not having access to the device.

Section 9. The amendment of 18 Pa.C.S. § 6120 shall apply to all actions pending on or brought after the effective date of the amendment of section 6120.

Section 10. This act shall take effect as follows:

- (1) The amendment of 18 Pa.C.S. § 6120 shall take effect immediately.
- (2) This section shall take effect immediately.
- (3) The remainder of this act shall take effect in 60 days.

APPROVED—The 15th day of December, A.D. 1999.

THOMAS J. RIDGE

¹"Admissibility of evidence.—" omitted in enrolled bill.