

No. 2004-74

AN ACT

HB 1117

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for railroad protection, railroad vandalism and interference with transportation facilities and for penalties; and providing for railroad civil immunity.

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

Section 1. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 3504. Railroad protection, railroad vandalism and interference with transportation facilities.

(a) Damage to railroad or delay of railroad operations.—

(1) A person commits an offense if, without lawful authority or the railroad carrier's consent, he causes damage to property that he knows or reasonably should have known to be railroad property, including the railroad right-of-way or yard, or causes a delay in railroad operations by an act including, but not limited to:

(i) Knowingly, purposefully or recklessly disrupting, delaying or preventing the operation of any train, jitney, trolley or any other facility of transportation.

(ii) Driving or operating a recreational vehicle or nonrecreational vehicle, including, but not limited to, a bicycle, motorcycle, snowmobile, all-terrain vehicle, car or truck.

(iii) Knowingly, purposefully or recklessly damaging railroad property, railroad infrastructure or railroad equipment or using railroad property to access adjoining property to commit acts of vandalism, theft or other criminal acts.

(2) An offense under this subsection constitutes a misdemeanor of the third degree.

(b) Stowaways prohibited.—

(1) A person commits an offense if, without lawful authority or the railroad carrier's consent, he rides on the outside of a train or inside a passenger car, locomotive or freight car, including a box car, flatbed or container.

(2) An offense under this subsection constitutes a misdemeanor of the third degree.

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

“Railroad.” Any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including, but not limited to:

(1) Commuter or other short-haul railroad passenger service in a metropolitan or suburban area.

(2) High-speed ground transportation systems that connect metropolitan areas, but not rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

“Railroad carrier.” A person, including, but not limited to, an owner or operator, providing railroad transportation.

“Railroad carrier’s consent.” Written or other affirmative communication of permission to be on railroad property. Consent shall not be implied.

“Railroad property.” All tangible property owned, leased or operated by a railroad carrier, including a right-of-way, track, bridge, yard, shop, station, tunnel, viaduct, trestle, depot, warehouse, terminal or any other structure, appurtenance or equipment owned, leased or used in the operation of any railroad carrier, including a train, locomotive, engine, railroad car, work equipment, rolling stock or safety device. The term does not include a railroad carrier’s administrative building or offices, office equipment or intangible property such as computer software or other information.

“Right-of-way.” The track or roadbed owned, leased or operated by a railroad carrier which is located on either side of its tracks and which is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs.

“Yard.” A system of parallel tracks, crossovers and switches where railroad cars are switched and made up into trains and where railroad cars, locomotives and other rolling stock are kept when not in use or when awaiting repairs.

Section 2. Title 42 is amended by adding a section to read:

§ 8339.1. Railroad civil immunity.

(a) General rule.—A railroad carrier owes no duty of care to keep its railroad property safe for entry or use by any trespasser who enters upon any railroad property or railroad right-of-way or to give any warning to such trespasser entering or going on that railroad property of a dangerous condition, use or activity thereon. Except as set forth in subsection (b), a railroad carrier shall not:

(1) Be presumed to extend any assurance to a trespasser entering or going on railroad property without the railroad carrier’s consent that the railroad property is safe for any purpose.

(2) Incur any duty of care toward a trespasser entering or going on railroad property without the railroad carrier’s consent.

(3) Become liable for any injury to a trespasser entering or going on railroad property without the railroad carrier’s consent caused by an act or omission of such trespasser.

(b) Limitation.—Nothing in this section limits in any way any liability which otherwise exists for willful or wanton failure to guard or warn against a dangerous condition, use or activity.

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

“Trespasser.” A person who enters onto railroad property without any right, lawful authority or the express consent of the railroad.

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

APPROVED—The 15th day of July, A.D. 2004.

EDWARD G. RENDELL