

No. 2006-27

AN ACT

HB 213

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for agricultural crop destruction; and adding an offense and a civil action relating to ecoterrorism.

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

Section 1. Section 3310 of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 3310. Agricultural crop destruction.

(a) Offenses defined.—A person commits a felony of the second degree if he intentionally and knowingly damages any field crop, vegetable or fruit plant or tree that is grown, stored or raised for scientific or commercial purposes or for any testing or research purpose in conjunction with a public or private research facility or a university or any Federal, State or local government agency.

(b) Restitution[; **costs and fees**].—Any person convicted of violating this section shall, in addition to any other penalty imposed, be sentenced to pay the owner of the damaged field crops, vegetable or fruit plants or trees restitution[, **attorney fees and court costs**]. Restitution shall be in an amount equal to the cost of the financial damages incurred as a result of the offense, including the following:

- (1) Value of the damaged crop.
- (2) Disposal of the damaged crop.
- (3) Cleanup of the property.
- (4) Lost revenue for the aggrieved owner of the damaged crop.

(c) Exceptions.—The provisions of this section shall not apply to field crops, vegetable or fruit plants or trees damaged through research or normal commercial activity.

Section 2. Title 18 is amended by adding a section to read:

§ 3311. *Ecoterrorism.*

(a) *General rule.*—*A person is guilty of ecoterrorism if the person commits a specified offense against property intending to do any of the following:*

- (1) *Intimidate or coerce an individual lawfully:*
 - (i) *participating in an activity involving animals, plants or an activity involving natural resources; or*
 - (ii) *using an animal, plant or natural resource facility.*
- (2) *Prevent or obstruct an individual from lawfully:*
 - (i) *participating in an activity involving animals, plants or an activity involving natural resources; or*

(ii) using an animal, plant or natural resource facility.

(b) Grading and penalty.—

(1) If the specified offense against property is a summary offense, an offense under this section shall be classified as a misdemeanor of the third degree.

(2) If the specified offense against property is a misdemeanor or a felony of the third or second degree, an offense under this section shall be classified one degree higher than the classification of the specified offense against property specified in section 106 (relating to classes of offenses).

(3) If the specified offense against property is a felony of the first degree, a person convicted of an offense under this section shall be sentenced to a term of imprisonment fixed by the court at not more than 40 years and may be sentenced to pay a fine of not more than \$100,000.

(c) Restitution.—Any person convicted of violating this section shall, in addition to any other penalty imposed, be sentenced to pay the owner of any damaged property which resulted from the violation restitution. Restitution shall be in an amount up to triple the value of the property damages incurred as a result of the specified offense against property. In ordering restitution pursuant to this subsection, the court shall consider as part of the value of the damaged property the market value of the property prior to the violation and the production, research, testing, replacement and development costs directly related to the property that was the subject of the specified offense.

(c.1) Immunity.—A person who exercises the right of petition or free speech under the United States Constitution or the Constitution of Pennsylvania on public property or with the permission of the landowner where the person is peaceably demonstrating or peaceably pursuing his constitutional rights shall be immune from prosecution for these actions under this section or from civil liability under 42 Pa.C.S. § 8319 (relating to ecoterrorism).

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

“Activity involving animals or plants.” A lawful activity involving the use of animals, animal parts or plants, including any of the following:

(1) Activities authorized under 30 Pa.C.S. (relating to fish) and 34 Pa.C.S. (relating to game).

(2) Activities authorized under the act of December 7, 1982 (P.L.784, No.225), known as the Dog Law.

(3) Food production, processing and preparation.

(4) Clothing manufacturing and distribution.

(5) Entertainment and recreation.

(6) Research, teaching and testing.

(7) Propagation, production, sale, use or possession of legal plants.

(8) Agricultural activity and farming as defined in section 3309 (relating to agricultural vandalism).

“Activity involving natural resources.” A lawful activity involving the use of a natural resource with an economic value, including any of the following:

(1) Mining, foresting, harvesting or processing natural resources.

(2) The sale, loan or lease of products which requires the use of natural resources.

“Animal, plant or natural resource facility.” A vehicle, building, structure or other premises:

(1) where an animal, plant or natural resource is lawfully housed, exhibited or offered for sale; or

(2) which is used for scientific purposes involving animals, plants or natural resources, including research, teaching and testing.

“Specified offense against property.” Any of the following offenses:

Section 3301(a), (c), (d), (d.1) and (f) (relating to arson and related offenses).

Section 3302 (relating to causing or risking catastrophe).

Section 3304 (relating to criminal mischief).

Section 3307 (relating to institutional vandalism).

Section 3309 (relating to agricultural vandalism).

Section 3310 (relating to agricultural crop destruction).

Section 3502 (relating to burglary) but only if the actor commits the crime for the purpose of committing one of the other offenses listed in this definition.

Section 3503 (relating to criminal trespass) but only if the actor commits the crime for the purpose of threatening or terrorizing the owner or occupant of the premises, starting or causing to be started any fire upon the premises or defacing or damaging the premises.

Section 3921 (relating to theft by unlawful taking or disposition).

Section 3922 (relating to theft by deception).

Section 4101 (relating to forgery).

Section 4120 (relating to identity theft).

Section 3. Title 42 is amended by adding a section to read:

§ 8319. Ecoterrorism.

(a) Civil action and relief.—An individual aggrieved by the offense of ecoterrorism as defined in 18 Pa.C.S. § 3311(a) (relating to ecoterrorism) may, in a civil action in any court of competent jurisdiction, obtain appropriate relief, including compensatory and punitive damages, reasonable investigative expenses and reasonable attorney fees and other costs associated with the litigation. Upon a showing of cause for the issuance of injunctive relief, a court may issue temporary restraining orders, preliminary injunctions and permanent injunctions as may be appropriate under this section. During any period that an action under this

section is pending, a court may order the cessation of the activity forming the basis of the complaint.

(b) Valuations.—In awarding damages under this section, a court shall consider the market value of the property prior to damage and production, research, testing, replacement and development costs directly related to the property that has been damaged as part of the value of the property as well as damage to any records, data and data-gathering equipment or devices.

(c) Limitations.—Damages recovered under this section shall be limited to triple the market value of the property prior to damage and actual damages involving production, research, testing, replacement and development costs directly related to the property that has been damaged.

Section 4. This act shall take effect in 60 days.

APPROVED—The 14th day of April, A.D. 2006.

EDWARD G. RENDELL