

No. 304

AN ACT

To amend the act, approved the twenty-fourth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 872), entitled "An act to consolidate, amend and revise the penal laws of the Commonwealth," by making unlawful fraudulent practices in connection with documents of title, bulk sales and security interests.

"The Penal Code."

Act of June 24, 1939, P. L. 872, amended by adding, after section 851, a new section numbered 851.1.

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

Section 1. The act, approved the twenty-fourth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 872), entitled "An act to consolidate, amend and revise the penal laws of the Commonwealth," is hereby amended by adding, immediately after section 851, a new section to read as follows:

Section 851.1. Fraudulent Practices in Connection with Documents of Title, Bulk Sales and Security Interests.—(a) Whoever, being a bailee, or any agent, servant or officer thereof, issues or aids in issuing a document of title, knowing that the goods covered by the document of title have not been received by him, nor under his control at the time the document is issued, is guilty of a misdemeanor, and, on conviction, shall be sentenced to pay a fine not exceeding five thousand (\$5000) dollars or undergo imprisonment not exceeding five (5) years, or both.

(b) Whoever, being a bailee, or any agent, servant or officer thereof, issues or aids in issuing a document of title, knowing that it contains any false statement, is guilty of a misdemeanor, and, on conviction, shall be sentenced to pay a fine not exceeding one thousand (\$1000) dollars or undergo imprisonment not exceeding one (1) year, or both.

(c) Except as provided, in section 7-601 of the "Uniform Commercial Code," approved the sixth day of April, one thousand nine hundred fifty-three, Act No. 1, whoever, being a bailee, or any agent, servant or officer thereof, issues or aids in issuing a duplicate or additional negotiable document of title, knowing that a former negotiable document for the same goods or any part of them is outstanding and uncanceled, is guilty of a misdemeanor, and, on conviction, shall be sentenced to pay a fine not exceeding five thousand (\$5000) dollars or to undergo imprisonment not exceeding five (5) years, or both.

(d) Except as provided in sections 7-403 and 7-601 of the "Uniform Commercial Code," approved the sixth day of April, one thousand nine hundred fifty-three, Act No. 1, whoever, being a bailee, or any agent, servant

or officer thereof, delivers goods, knowing that they are covered by an outstanding document of title, the negotiation of which would transfer the right to possession thereof, without obtaining the negotiable document, is guilty of a misdemeanor, and, on conviction, shall be sentenced to pay a fine not exceeding one thousand (\$1000) dollars or undergo imprisonment not exceeding one (1) year, or both.

(e) Whoever, being a warehouseman, or any agent, servant or officer thereof, in possession of goods which he owns in part, wholly or jointly issues a negotiable warehouse receipt therefor, without noting his ownership on the receipt, is guilty of a misdemeanor, and, on conviction, shall be sentenced to pay a fine not exceeding one thousand (\$1000) dollars or to undergo imprisonment not exceeding one (1) year, or both.

(f) Whoever, with intent to defraud, obtains a negotiable document of title for goods to which he does not have title, or which are subject to a security interest, and negotiates the document for value, without disclosing his want of title or the existence of the security interest, is guilty of a misdemeanor, and, on conviction, shall be sentenced to pay a fine not exceeding one thousand (\$1000) dollars or undergo imprisonment not exceeding one (1) year, or both.

(g) Whoever, with intent to defraud, secures the issue by a bailee of a negotiable document of title, knowing at the time of issue that any or all of the goods are not in possession of the bailee, by inducing the bailee to believe that the goods are in the bailee's possession, is guilty of a misdemeanor, and, on conviction, shall be sentenced to pay a fine not exceeding five thousand (\$5000) dollars or undergo imprisonment not exceeding five (5) years, or both.

(h) Whoever, with intent to defraud, negotiates or transfers for value a document of title, which by the terms thereof represents that goods are in possession of the bailee which issued the document, knowing that the bailee is not in possession of the goods or any part thereof, without disclosing this fact, is guilty of a misdemeanor, and, on conviction, shall be sentenced to pay a fine not exceeding five thousand (\$5000) dollars or undergo imprisonment not exceeding five (5) years, or both.

(i) Any vendor of any stock of goods in bulk, fixtures, wares, or merchandise, of any kind, or any person who is acting for or on behalf of any vendor, who shall knowingly or wilfully make or deliver, or cause to be made or delivered, a statement as provided for in section 6-104 of the "Uniform Commercial Code," approved the sixth day of April, one thousand nine hundred fifty-three, Act No. 1, which shall not include the names of all of the

creditors of such vendor, with the correct amount due and to become due to each of them, or which shall contain any false or untrue statement, is guilty of a misdemeanor, and, on conviction, shall be sentenced to pay a fine not exceeding five thousand (\$5000) dollars or to undergo imprisonment not exceeding six (6) months, or both.

(j) Any person or persons, firm or corporation, or any person or persons acting for or on behalf of any firm or corporation, who shall procure from any seller or vendor a list of creditors, as hereinabove set forth, through fraud, misrepresentation or deceit, for the purpose of injuring the seller or vendor in his business, and not for the purpose of securing the creditors of the seller or vendor, is guilty of a misdemeanor, and, on conviction, shall be sentenced to pay a fine not exceeding one thousand (\$1000) dollars.

(k) Whoever, being a debtor in possession of goods, defined in clause (f) of subsection (1) of section 9-105 of the "Uniform Commercial Code," approved the sixth day of April, one thousand nine hundred fifty-three, Act No. 1, subject to a security interest, maliciously or fraudulently sells, injures, destroys, conceals, abandons, or defaces identifying marks on such goods, or otherwise disposes of such goods under claim of full *ownership shall be guilty of a misdemeanor, and, on conviction, shall be sentenced to pay a fine not exceeding five hundred (\$500) dollars or undergo imprisonment not exceeding one (1) year, or both.

Section 2. The provisions of this act shall become effective at 12:01 A.M. on the first day of July, one thousand nine hundred fifty-four.

APPROVED—The 19th day of August, A. D. 1953.

JOHN S. FINE

No. 305

AN ACT

To amend the title and act, approved the twenty-seventh day of June, one thousand nine hundred forty-seven (Pamphlet Laws 1095), entitled "An act providing for the regulation of mining of anthracite coal by the open pit or strip mining method and for the conservation and improvement of lands affected directly or indirectly by such mining; requiring operators to register, pay a license fee and secure a permit to engage in strip mining and file a bond conditioned for compliance with this act; requiring backfilling of stripping pits and leveling and planting lands affected to prevent erosion and the pollution of waters and to protect public health, safety and welfare; conferring powers and imposing duties upon the Department of Mines

* "ownership" in original.