

No. 1987-37

AN ACT

SB 19

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for identification, possession and unlawful use of shopping carts, laundry carts, dairy cases, egg baskets, poultry boxes, bakery trays and bakery baskets; and providing a penalty.

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

Section 1. Sections 6705 and 6706 of Title 18 of the Pennsylvania Consolidated Statutes are repealed.

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

§ 6712. *Use of carts, cases, trays, baskets, boxes and other containers.*

(a) *General rule.*—A person owning shopping carts, laundry carts or containers may adopt and use a name or mark on the carts or containers and may register the same pursuant to 54 Pa.C.S. Ch. 15 (relating to reusable marked articles and receptacles).

(b) *Prohibited uses of containers.*—A person may not do any of the following:

(1) *Use for any purpose, when not on the premises of the owner or an adjacent parking area, a container of another which is identified with or by any name or mark unless the use is authorized by the owner.*

(2) *Sell, or offer for sale, a container of another which is identified with or by a name or mark unless the sale is authorized by the owner.*

(3) *Deface, obliterate, destroy, cover up or otherwise remove or conceal a name or mark on a container of another without the written consent of the owner.*

(c) *Presumption of possession.*—Any person who is in possession of any shopping cart, laundry cart or container which has a name or mark and is not on the premises of the owner or an adjacent parking area shall be presumed to be in possession of stolen property.

(d) *Transportation of containers; bill of lading.*—It shall be unlawful for any common carrier or private carrier for hire, except those engaged in the transporting of dairy products, eggs and poultry to and from farms where they are produced, to receive or transport any container marked with a name or mark unless the carrier has in his possession a bill of lading or invoice therefor.

(e) *Unlawful removal of containers.*—It is a violation of this section for any person to remove a container from the premises, parking area or any other area of any processor, distributor or retail establishment, or from any delivery vehicle, unless legally authorized to do so, if:

(1) *The container is marked on at least one side with a name or mark.*

(2) *A notice to the public, warning that use by any person other than the owner is punishable by law, is visibly displayed on the container.*

(f) *Illegal use of shopping carts and laundry carts.—It is a violation of this section:*

(1) *To remove any shopping cart or laundry cart from the premises or parking area of a retail establishment with intent to temporarily or permanently deprive the owner of the cart, or the retailer, of possession of the cart.*

(2) *To remove a shopping cart or laundry cart, without written authorization from the owner of the cart, from the premises or parking area of any retail establishment.*

(3) *To possess, without the written permission of the owner or retailer in lawful possession thereof, any shopping cart or laundry cart off the premises or parking lot of the retailer whose name or mark appears thereon.*

(4) *To remove, obliterate or alter any serial number, name or mark affixed to a shopping cart or laundry cart.*

(g) *Deposits.—The requiring, taking or accepting of any deposit, upon delivery of a container, shopping cart or laundry cart, shall not be deemed a sale thereof, optional or otherwise.*

(h) *Penalty.—A person who violates this section commits a summary offense and shall, upon conviction, be sentenced to pay a fine not exceeding \$300 or to imprisonment for not more than 90 days. Each violation shall constitute a separate offense.*

(i) *Scope of section.—This section shall not apply to the owner of a shopping cart, laundry cart or container, or to a customer or any other person who has written consent from the owner of a shopping cart, laundry cart or container, or from a retailer, in lawful possession thereof, to remove it from the premises or the parking area of the retail establishment. For the purposes of this section, the term “written consent” includes tokens and other indicia of consent which may be established by the owner of the carts or the retailer.*

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

“*Bakery basket.*” *A wire or plastic container which holds bread or other baked goods and is used by a distributor or retailer, or his agent, as a means to transport, store or carry bakery products.*

“*Bakery tray.*” *A wire or plastic container which holds bread or other baked goods and is used by a distributor or retailer, or his agent, as a means to transport, store or carry bakery products.*

“*Container.*” *A bakery basket, bakery tray, dairy case, egg basket, poultry box or any other container used to transport, store or carry any product.*

“*Dairy case.*” *A wire or plastic container which holds 16 quarts or more of beverage and is used by distributors or retailers, or their agents, as a means to transport, store or carry dairy products.*

“Egg basket.” Any permanent type of container which contains four dozen or more shell eggs and is used by distributors or retailers, or their agents, as a means to transport, store or carry eggs.

“Laundry cart.” A basket which is mounted on wheels and used in a coin-operated laundry or drycleaning establishment by a customer or an attendant for the purpose of transporting laundry and laundry supplies.

“Name” or “mark.” Any permanently affixed or permanently stamped name or mark which is used for the purpose of identifying the owner of shopping carts, laundry carts, dairy cases, egg baskets, poultry boxes, bakery trays or bakery boxes.

“Parking area.” A lot or other property provided by a retail establishment for the use of customers to park automobiles or other vehicles while doing business in that establishment.

“Poultry box.” Any permanent type of container which is used by processors, distributors, retailers or food service establishments, or their agents, as a means to transport, store or carry poultry.

“Shopping cart.” A basket which is mounted on wheels, or a similar device, generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

Section 3. No person who returns a shopping cart, laundry cart or container, which was removed from the premises of the owner prior to the effective date of this act, to its owner within 60 days after the effective date of this act shall be prosecuted under the provisions of 18 Pa.C.S. § 6712 (relating to use of carts, cases, trays, baskets, boxes and other containers).

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

APPROVED—The 9th day of July, A. D. 1987.

ROBERT P. CASEY