

No. 2002-116

## AN ACT

HB 582

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for criminal mischief, for institutional vandalism, for criminal trespass and for retail theft.

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

Section 1. Section 3304(a) of Title 18 of the Pennsylvania Consolidated Statutes is amended and the section is amended by adding a subsection to read:

§ 3304. Criminal mischief.

(a) Offense defined.—A person is guilty of criminal mischief if he:

(1) damages tangible property of another intentionally, recklessly, or by negligence in the employment of fire, explosives, or other dangerous means listed in section 3302(a) of this title (relating to causing or risking catastrophe);

(2) intentionally or recklessly tampers with tangible property of another so as to endanger person or property;

(3) intentionally or recklessly causes another to suffer pecuniary loss by deception or threat; [or]

(4) intentionally defaces or otherwise damages tangible public property or tangible property of another with [an] *graffiti by use of any aerosol spray-paint can, broad-tipped indelible marker or similar marking device; or*

(5) *intentionally damages real or personal property of another.*

\* \* \*

(c) *Definition.—As used in this section, the term “graffiti” means an unauthorized inscription, word, figure, mark or design which is written, marked, etched, scratched, drawn or painted.*

Section 2. Section 3307(a) of Title 18 is amended to read:

§ 3307. Institutional vandalism.

(a) Offenses defined.—A person commits the offense of institutional vandalism if he knowingly desecrates, as defined in section 5509 (relating to desecration or sale of venerated objects), vandalizes, defaces or otherwise damages:

(1) any church, synagogue or other facility or place used for religious worship or other religious purposes;

(2) any cemetery, mortuary or other facility used for the purpose of burial or memorializing the dead;

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<sup>1</sup>“desecration of” in enrolled bill.

(3) any school, educational facility, community center, municipal building, courthouse facility, *State or local government building or vehicle* or juvenile detention center;

(4) the grounds adjacent to and owned or occupied by any facility set forth in paragraph (1), (2) or (3); or

(5) any personal property located in any facility set forth in this subsection.

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Section 3. Section 3503(b) of Title 18 is amended and the section is amended by adding a subsection to read:

§ 3503. Criminal trespass.

\* \* \*

(b) Defiant trespasser.—

(1) A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by:

(i) actual communication to the actor; [or]

(ii) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; [or]

(iii) fencing or other enclosure manifestly designed to exclude intruders[.];

(iv) *notices posted in a manner prescribed by law or reasonably likely to come to the person's attention at each entrance of school grounds that visitors are prohibited without authorization from a designated school, center or program official; or*

(v) *an actual communication to the actor to leave school grounds as communicated by a school, center or program official, employee or agent or a law enforcement officer.*

(2) [An] *Except as provided in paragraph (1)(v), an offense under this subsection constitutes a misdemeanor of the third degree if the offender defies an order to leave personally communicated to him by the owner of the premises or other authorized person. An offense under paragraph (1)(v) constitutes a misdemeanor of the first degree.* Otherwise it is a summary offense.

\* \* \*

(d) *Definition.—As used in this section, the term "school grounds" means any building of or grounds of any elementary or secondary publicly funded educational institution, any elementary or secondary private school licensed by the Department of Education, any elementary or secondary parochial school, any certified day-care center or any licensed preschool program.*

Section 4. Section 3929(b) of Title 18 is amended to read:

§ 3929. Retail theft.

\* \* \*

(b) Grading.—

(1) Retail theft constitutes a:

(i) Summary offense when the offense is a first offense and the value of the merchandise is less than \$150.

(ii) Misdemeanor of the second degree when the offense is a second offense and the value of the merchandise is less than \$150.

(iii) Misdemeanor of the first degree when the offense is a first or second offense and the value of the merchandise is \$150 or more.

(iv) Felony of the third degree when the offense is a third or subsequent offense, regardless of the value of the merchandise.

(v) Felony of the third degree when the amount involved exceeds \$2,000 or if the merchandise involved is a firearm or a motor vehicle.

***(1.1) Any person who is convicted under subsection (a) of retail theft of motor fuel may, in addition to any other penalty imposed, be sentenced as follows:***

***(i) For a first offense, to pay a fine of not less than \$100 nor more than \$250.***

***(ii) For a second offense, to pay a fine of not less than \$250 nor more than \$500.***

***(iii) For a third or subsequent offense, to pay a fine of not less than \$500, or the court may order the operating privilege of the person suspended for 30 days. A copy of the order shall be transmitted to the Department of Transportation.***

(2) Amounts involved in retail thefts committed pursuant to one scheme or course of conduct, whether from the same store or retail mercantile establishment or several stores or retail mercantile establishments, may be aggregated in determining the grade of the offense.

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Section 5. This act shall take effect as follows:

(1) The amendment of 18 Pa.C.S. § 3929(b) shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

APPROVED—The 2nd day of October, A.D. 2002.

MARK S. SCHWEIKER