

No. 2014-192

AN ACT

HB 80

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in burglary and other criminal intrusion, further providing for the offense of criminal trespass; defining the offense of theft of secondary metal; prescribing penalties; and, in firearms and other dangerous articles, further providing for Pennsylvania State Police and for limitation on the regulation of firearms and ammunition.

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

Section 1. Section 3503(b.1) and (d) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 3503. Criminal trespass.

\*\*\*

(b.1) Simple 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 for the purpose of:

(i) threatening or terrorizing the owner or occupant of the premises;

(ii) starting or causing to be started any fire upon the premises;

[or]

(iii) defacing or damaging the premises[.]; or

(iv) *unlawfully taking secondary metal from the premises.*

(2) An offense under [this subsection] *paragraph (1)(iv) constitutes a first degree misdemeanor. An offense under paragraph (1)(i), (ii) or (iii) constitutes a summary offense.*

\*\*\*

(d) [Definition.—As used in this section, the term "school grounds" means any] *Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:*

*"School grounds."* 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.

*"Secondary metal."* As defined in section 3935 (relating to theft of secondary metal).

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

§ 3935. *Theft of secondary metal.*

(a) *Offense defined.—A person commits the offense of theft of secondary metal if the person unlawfully takes or attempts to take possession of, carries away or exercises unlawful control over any secondary metal with intent to deprive the rightful owner thereof.*

*(b) Grading.—Except as set forth in subsection (c):*

*(1) An offense under this section constitutes a misdemeanor of the third degree when the value of the secondary metal unlawfully obtained is less than \$50.*

*(2) When the value of the secondary metal unlawfully obtained is \$50 or more but less than \$200 the offense constitutes a misdemeanor of the second degree.*

*(3) When the value of the secondary metal unlawfully obtained is \$200 or more but less than \$1,000 the offense constitutes a misdemeanor of the first degree.*

*(4) When the value of the secondary metal unlawfully obtained is \$1,000 or more, the offense constitutes a felony of the third degree.*

*(c) Third or subsequent offenses.—An offense under this section constitutes a felony of the third degree when the offense is a third or subsequent offense, regardless of the value of the secondary metal. For purposes of this subsection, a first and second offense includes a conviction, acceptance of Accelerated Rehabilitative Disposition or other form of preliminary disposition before the sentencing on the present violation for an offense under this section or an offense under section 3921 (relating to theft by unlawful taking or disposition).*

*(d) Definition.—As used in this section, the term "secondary metal" means wire, pipe or cable commonly used by communications, gas and electrical utilities and railroads and mass transit or commuter rail agencies, copper, aluminum or other metal, or a combination of metals, that is valuable for recycling or reuse as raw material.*

Section 3. Section 6111.1(f)(3) and (g)(1) and (3) of Title 18 are amended to read:

§ 6111.1. Pennsylvania State Police.

\* \* \*

(f) Notification of mental health adjudication, treatment, commitment, drug use or addiction.—

\* \* \*

(3) Notwithstanding any law to the contrary, the Pennsylvania State Police [may] *shall, within 72 hours of receipt*, disclose, electronically or otherwise, to the United States Attorney General or a designee, any record relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under 18 U.S.C. § 922 (g)(3) or (4) or an applicable state statute[.], *and any record relevant to a determination of whether a person is not disqualified or is no longer disqualified from possessing or receiving a firearm under 18 U.S.C. § 922(g)(3) or (4) or an applicable state statute.*

(g) Review by court.—

(1) Upon receipt of a copy of the order of a court of competent jurisdiction which vacates a final order or an involuntary certification issued by a mental health review officer, the Pennsylvania State Police shall, *after disclosing relevant records under subsection (f)(3)*, expunge all records of the involuntary treatment received under subsection (f).

\* \* \*

(3) The Pennsylvania State Police, *after disclosing relevant records under subsection (f)(3)*, shall expunge all records of an involuntary commitment of an individual who is discharged from a mental health facility based upon the initial review by the physician occurring within two hours of arrival under section 302(b) of the Mental Health Procedures Act and the physician's determination that no severe mental disability existed pursuant to section 302(b) of the Mental Health Procedures Act. The physician shall provide signed confirmation of the determination of the lack of severe mental disability following the initial examination under section 302(b) of the Mental Health Procedures Act to the Pennsylvania State Police.

\* \* \*

Section 4. Section 6120(b) of Title 18 is amended and the section is amended by adding subsections to read:

§ 6120. Limitation on the regulation of firearms and ammunition.

\* \* \*

*(a.2) Relief.—A person adversely affected by an ordinance, a resolution, regulation, rule, practice or any other action promulgated or enforced by a county, municipality or township prohibited under subsection (a) or 53 Pa.C.S. § 2962(g) (relating to limitation on municipal powers) may seek declaratory or injunctive relief and actual damages in an appropriate court.*

*(a.3) Reasonable expenses.—A court shall award reasonable expenses to a person adversely affected in an action under subsection (a.2) for any of the following:*

*(1) A final determination by the court is granted in favor of the person adversely affected.*

*(2) The regulation in question is rescinded, repealed or otherwise abrogated after suit has been filed under subsection (a.2) but before the final determination by the court.*

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

"Dealer." The term shall include any person engaged in the business of selling at wholesale or retail a firearm or ammunition.

"Firearms." This term shall have the meaning given to it in section 5515 (relating to prohibiting of paramilitary training) but shall not include air rifles as that term is defined in section 6304 (relating to sale and use of air rifles).

*"Person adversely affected." Any of the following:*

*(1) A resident of this Commonwealth who may legally possess a firearm under Federal and State law.*

*(2) A person who otherwise has standing under the laws of this Commonwealth to bring an action under subsection (a.2).*

*(3) A membership organization, in which a member is a person described under paragraph (1) or (2).*

"Political subdivision." The term shall include any home rule charter municipality, county, city, borough, incorporated town, township or school district.

***"Reasonable expenses." The term includes, but is not limited to, attorney fees, expert witness fees, court costs and compensation for loss of income.***

Section 5. This act shall take effect in 60 days.

APPROVED—The 6th day of November, A.D. 2014

TOM CORBETT