

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1863 Session of 2013

INTRODUCED BY MACKENZIE, CALTAGIRONE, MCNEILL, MILLARD, SWANGER, R. BROWN, KORTZ, C. HARRIS, HARHAI, DeLUCA, WATSON, MURT, HARHART AND ENGLISH, NOVEMBER 25, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JANUARY 15, 2014

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for grading of theft
3 offenses.

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

6 Section 1. Section 3903 of Title 18 of the Pennsylvania <--
7 Consolidated Statutes is amended to read:

8 § 3903. Grading of theft offenses.

9 (a) Felony of the second degree. Theft constitutes a felony
10 of the second degree if:

11 (1) The offense is committed during a manmade disaster,
12 a natural disaster or a war caused disaster and constitutes a
13 violation of section 3921 (relating to theft by unlawful
14 taking or disposition), 3925 (relating to receiving stolen
15 property), 3928 (relating to unauthorized use of automobiles
16 and other vehicles) or 3929 (relating to retail theft).

17 (2) The property stolen is a firearm.

1           ~~(3) In the case of theft by receiving stolen property,~~  
2           ~~the property received, retained or disposed of is a firearm.~~

3           ~~(4) The property stolen is any amount of anhydrous~~  
4           ~~ammonia.~~

5           ~~(5) The amount involved is \$100,000 or more but less~~  
6           ~~than \$500,000.~~

7           ~~(a.1) Felony of the third degree. Except as provided in~~  
8           ~~subsection (a) or (a.2), theft constitutes a felony of the third~~  
9           ~~degree if the amount involved exceeds \$2,000, or if the property~~  
10           ~~stolen is an automobile, airplane, motorcycle, motorboat or~~  
11           ~~other motor propelled vehicle, or in the case of theft by~~  
12           ~~receiving stolen property, if the receiver is in the business of~~  
13           ~~buying or selling stolen property.~~

14           ~~(a.2) Felony of the first degree. [Theft] Except as~~  
15           ~~provided in subsections (a) and (a.1), theft constitutes a~~  
16           ~~felony of the first degree if[,]:~~

17           ~~(1) in the case of theft by receiving stolen property,~~  
18           ~~the property received, retained or disposed of is a firearm~~  
19           ~~and the receiver is in the business of buying or selling~~  
20           ~~stolen property[.]; or~~

21           ~~(2) the amount involved is \$500,000 or more.~~

22           ~~(b) Other grades. Theft not within subsection (a), (a.1) or~~  
23           ~~(a.2), constitutes a misdemeanor of the first degree, except~~  
24           ~~that if the property was not taken from the person or by threat,~~  
25           ~~or in breach of fiduciary obligation, and:~~

26           ~~(1) the amount involved was \$50 or more but less than~~  
27           ~~\$200 the offense constitutes a misdemeanor of the second~~  
28           ~~degree; or~~

29           ~~(2) the amount involved was less than \$50 the offense~~  
30           ~~constitutes a misdemeanor of the third degree.~~

1 ~~(c) Valuation. The amount involved in a theft shall be~~  
2 ~~ascertained as follows:~~

3 ~~(1) Except as otherwise specified in this section, value~~  
4 ~~means the market value of the property at the time and place~~  
5 ~~of the crime, or if such cannot be satisfactorily~~  
6 ~~ascertained, the cost of replacement of the property within a~~  
7 ~~reasonable time after the crime.~~

8 ~~(2) Whether or not they have been issued or delivered,~~  
9 ~~certain written instruments, not including those having a~~  
10 ~~readily ascertainable market value such as some public and~~  
11 ~~corporate bonds and securities, shall be evaluated as~~  
12 ~~follows:~~

13 ~~(i) The value of an instrument constituting an~~  
14 ~~evidence of debt, such as a check, draft or promissory~~  
15 ~~note, shall be deemed the amount due or collectible~~  
16 ~~thereon or thereby, such figure ordinarily being the face~~  
17 ~~amount of the indebtedness less any portion thereof which~~  
18 ~~has been satisfied.~~

19 ~~(ii) The value of any other instrument which~~  
20 ~~creates, releases, discharges or otherwise affects any~~  
21 ~~valuable legal right, privilege or obligation shall be~~  
22 ~~deemed the greatest amount of economic loss which the~~  
23 ~~owner of the instrument might reasonably suffer by virtue~~  
24 ~~of the loss of the instrument.~~

25 ~~(3) When the value of property cannot be satisfactorily~~  
26 ~~ascertained pursuant to the standards set forth in paragraphs~~  
27 ~~(1) and (2) of this subsection its value shall be deemed to~~  
28 ~~be an amount less than \$50. Amounts involved in thefts~~  
29 ~~committed pursuant to one scheme or course of conduct,~~  
30 ~~whether from the same person or several persons, may be~~

1 aggregated in determining the grade of the offense.

2 SECTION 1. SECTION 3903(D) OF TITLE 18 OF THE PENNSYLVANIA <--  
3 CONSOLIDATED STATUTES IS AMENDED AND THE SECTION IS AMENDED BY  
4 ADDING A SUBSECTION TO READ:

5 § 3903. GRADING OF THEFT OFFENSES.

6 \* \* \*

7 (c.1) Sentencing enhancement for theft of public funds or  
8 theft in breach of a fiduciary duty.--Notwithstanding ~~section~~ <--  
9 SECTIONS 1103 (relating to sentence of imprisonment for felony) <--  
10 AND 1104 (RELATING TO SENTENCE OF IMPRISONMENT FOR <--  
11 MISDEMEANORS), the maximum term of imprisonment for an offense  
12 graded under this section may be increased by a term of  
13 imprisonment of up to five years when the theft is from a  
14 political subdivision, local authority or public or private  
15 charitable organization or when the theft constitutes a breach  
16 of fiduciary duty.

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

20 "AFFILIATE." ANY CHAPTER, BRANCH, AUXILIARY OR OTHER <--  
21 SUBORDINATE UNIT OF ANY CHARITABLE ORGANIZATION, HOWSOEVER  
22 DESIGNATED, WHOSE POLICIES, FUNDRAISING ACTIVITIES AND  
23 EXPENDITURES ARE SUPERVISED OR CONTROLLED BY THE PARENT  
24 ORGANIZATION.

25 "Charitable organization." Any person granted tax exempt  
26 status under section 501(c)(3) of the Internal Revenue Code of  
27 1986 (Public Law 99-514, 26 U.S.C. 501(c)(3)) or any person who  
28 is or holds himself out to be established for any charitable  
29 purpose or any person who in any manner employs a charitable  
30 appeal as the basis of any solicitation or an appeal which has

1 the tendency to suggest there is a charitable purpose to any  
2 solicitation. The term includes:

3 (1) An affiliate of a charitable organization which has  
4 its principal place of business outside this Commonwealth.

5 (2) A bona fide duly constituted organization of law  
6 enforcement personnel, firefighters or other personnel who  
7 protect the public safety.

8 (3) A fraternal benefit society.

9 "CHARITABLE PURPOSE." ANY BENEVOLENT, EDUCATIONAL, <--  
10 PHILANTHROPIC, HUMANE, SCIENTIFIC, PATRIOTIC, SOCIAL WELFARE OR  
11 ADVOCACY, PUBLIC HEALTH, ENVIRONMENTAL CONSERVATION, CIVIC OR  
12 OTHER ELEEMOSYNARY OBJECTIVE.

13 "Manmade disaster." Any industrial, nuclear or  
14 transportation accident, explosion, conflagration, power  
15 failure, natural resource shortage or other condition, except  
16 enemy action, resulting from manmade causes, such as oil spills  
17 and other injurious environmental contamination, which threatens  
18 or causes substantial damage to property, human suffering,  
19 hardship or loss of life.

20 "Natural disaster." Any hurricane, tornado, storm, flood,  
21 high water, wind-driven water, tidal wave, earthquake,  
22 landslide, mudslide, snowstorm, drought, fire, explosion or  
23 other catastrophe which results in substantial damage to  
24 property, hardship, suffering or possible loss of life.

25 "Person." Any individual, organization, corporation,  
26 association, partnership, trust, foundation or any other entity  
27 however styled.

28 "SOLICITATION." ANY DIRECT OR INDIRECT REQUEST FOR A <--  
29 CONTRIBUTION ON THE REPRESENTATION THAT THE CONTRIBUTION WILL BE  
30 USED IN WHOLE OR IN PART FOR A CHARITABLE PURPOSE.

1 "War-caused disaster." Any condition following an attack  
2 upon the United States resulting in substantial damage to  
3 property or injury to persons in the United States caused by use  
4 of bombs, missiles, shellfire, nuclear, radiological, chemical  
5 or biological means, or other weapons or overt paramilitary  
6 actions, or other conditions such as sabotage.

7 Section 2. This act shall take effect in 60 days.