

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

DAYLIN LEACH, Minority Chairman of the :  
Senate Judiciary Committee and Senator :  
Representing the 17th Senatorial District, :  
VINCENT J. HUGHES, Senator Representing :  
the 7th Senatorial District, LAWRENCE M. :  
FARNESE, Senator Representing the 1st :  
Senatorial District, CHERELLE L. PARKER, :  
Representative for the 200th House District, :  
EDWARD C. GAINEY, Representative for the :  
24th House District, the CITY OF :  
PHILADELPHIA, the CITY OF PITTSBURGH, :  
and the CITY OF LANCASTER :

Petitioners, :

v. :

No. 2014  
ORIGINAL  
JURISDICTION

COMMONWEALTH OF PENNSYLVANIA, :  
SAMUEL H. SMITH, Speaker of the House of :  
Representatives, JAMES F. CAWLEY, Lieutenant :  
Governor of the Commonwealth of Pennsylvania, :  
and THOMAS WINGETT CORBETT, Governor :  
of the Commonwealth of Pennsylvania, :

Respondents. :

**PETITION FOR REVIEW IN THE NATURE  
OF A COMPLAINT IN EQUITY WITH NOTICE TO PLEAD**

## **NOTICE TO PLEAD**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within 30 days (pursuant to Pennsylvania Rule of Appellate Procedure 1516(c)) after this Petition and Notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any claim or relief requested by the Petitioners.

## **I. Introductory Statement**

1. This is a Petition for Review seeking a declaration and injunctive relief striking down Act No. 192 of 2014 (“Act 192”), a piece of legislation passed in the final moments of the 2014 legislative session which combined two utterly disparate subject matters in one bill—the criminalization of the theft of secondary metals and an unprecedented grant of standing rights to gun advocates and others, allowing them to sue municipalities and seek attorneys fees.

2. Act 192 is an extraordinary piece of legislation, both in its scope and its provenance. It was passed on behalf of the gun lobby in an effort to overturn the considered judgment of the courts of the Commonwealth regarding when gun advocates had standing to sue. Unable to resort to the courts, the gun lobby sought assistance from legislators, who sponsored legislation granting their constituents a right afforded to no others—a hunting license to enter the courts, challenge municipal legislation and collect a bounty.

3. Given the novel nature of the standing and fee provisions, the bill, then known as House Bill No. 1243 (“HB 1243”), met strong resistance in the legislature. However, in the last hours of the legislative session, with the clock winding down and the prospect of a potential change in governor

looming, the proponents in the Senate combined an uncontroversial bill, House Bill No. 80 (“HB 80”), which criminalized the theft of copper pipes and wires and had passed the House by a vote of 197-2, with the stalled HB 1243, thereby reviving the standing legislation.

4. Over strong objections that the multifarious HB 80 violated the original purpose, single subject and clear title requirements of Article III, Sections 1 and 3 of the Pennsylvania Constitution, the Respondents signed the bill into law—indeed they did so *twice*. Several days after the Governor executed the rushed HB 80 at a signing ceremony for the gun lobby, the Speaker informed the Governor, that they had “mistakenly signed the incorrect printer’s number of the bill.” Special sessions of the House and Senate were then called for November 5 and 6, 2014, to sign the bill all over again. The process used to pass HB 80 was flawed root and branch.

5. The Plaintiffs in this action are legislators who stood against the bill and were deprived of their right, guaranteed by the Pennsylvania Constitution, to vote on single subject legislation, and municipalities that will be at the forefront of a coming wave of litigation. As a result of the illegal actions of the Respondents, the Commonwealth is poised on the edge of a precipice, awaiting a deluge of litigation from gun advocates on the effective date of Act 192, January 5, 2015.

6. Petitioners request that the Court declare Act 192 to be unconstitutional and enjoin enforcement of Act 192.

## **II. Parties**

7. Petitioner Daylin Leach is an adult individual residing in Upper Merion, Montgomery County, Pennsylvania, and is a duly elected member of the State Senate of Pennsylvania, representing the 17th Senatorial District. He is the Minority Chairman of the Senate Judiciary Committee and led efforts on the Senate floor to prevent passage of HB 80.

8. Petitioner Vincent J. Hughes is an adult individual residing in Philadelphia, Pennsylvania, and is a duly elected member of the State Senate of Pennsylvania, representing the 7th Senatorial District.

9. Petitioner Lawrence M. Farnese is an adult individual residing in Philadelphia, Pennsylvania, and is a duly elected member of the State Senate of Pennsylvania, representing the 1st Senatorial District.

10. Petitioner Cherelle L. Parker is an adult individual residing in Philadelphia, Pennsylvania, and is a duly elected member of the House of Representatives of Pennsylvania, representing the 200th House District.

11. Petitioner Edward C. Gainey is an adult individual residing in Pittsburgh, Pennsylvania, and is a duly elected member of the

House of Representatives of Pennsylvania, representing the 24th House District.

12. Petitioner the City of Philadelphia is a City of the First Class in the Commonwealth of Pennsylvania and is also a County of the First Class in the Commonwealth of Pennsylvania.

13. Petitioner the City of Pittsburgh is a City of the Second Class in the Commonwealth of Pennsylvania.

14. Petitioner the City of Lancaster is a City of the Third Class in the Commonwealth of Pennsylvania.

15. Respondent Samuel H. Smith is Speaker of the House of Representatives and the presiding officer of the House of Representatives within the meaning of Pa. Const. art. III, § 8. In that official capacity, he signed HB 80, thereby certifying that the bill had been duly and legally passed by the House of Representatives.

16. Respondent James F. Cawley is Lieutenant Governor of the Commonwealth of Pennsylvania, and pursuant to Pa. Const. art. IV, § 4, serves as the presiding officer of the Senate when in attendance. In that official capacity, he signed HB 80, thereby certifying that the bill had been duly and legally passed by the Senate.

17. Respondent Thomas Wingett Corbett is Governor of the Commonwealth of Pennsylvania. Governor Corbett, as the person in whom “[the] supreme executive power” of the Commonwealth is vested, is required to “take care that the laws be faithfully executed.” Pa. Const. art. IV, § 2. He is authorized to approve bills presented to him by both Houses of the General Assembly. Pa. Const. art. IV, § 15. In that official capacity, he signed HB 80, thereby certifying that it had been duly and legally passed and enacting the bill into law.

### **III. Jurisdiction**

18. This Court has original jurisdiction of this action pursuant to 42 Pa. C.S. § 761(a)(1) and 42 Pa.C.S. § 7531.

### **IV. Statement of Facts**

#### **Introduction of House Bill No. 80**

19. Act 192 began as HB 80 and was entitled “AN ACT Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining the offense of theft of secondary metal; and prescribing penalties.” The original version of HB 80 was given Printer’s No. 68 and was introduced into the General Assembly and referred to the House Committee on the Judiciary on January 10, 2013. A true and correct copy of Printer’s

No. ("PN") 68, Regular Session 2013-14 is appended to this Petition as Exhibit "A."

20. The original purpose of the bill was to create criminal penalties for the theft of secondary metals, such as copper and aluminum. The two-page bill had four subsections, a definition of the offense, grading for the offense, a penalty for repeat offenders and a definition of "secondary metal." The definitions appear below:

§ 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.

(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.



21. According to its prime sponsor, HB 80 was introduced to combat the theft of copper wiring and other scrap metals used in business, and the consequent disruption of business and utility supply, as well as revenue losses. Daryl Metcalfe, House Co-Sponsorship Memorandum on Theft of Secondary Metals, Dec. 10, 2012 (appended to this Petition as Exhibit “B”).

22. HB 80 in its original form made no mention of, and had no relation to, authorizing membership organizations or gun advocates to sue municipalities over firearms legislation.

Amendment of HB 80 in the House and Passage by the House

23. On June 18, 2013, HB 80 underwent a minor technical amendment in the House Judiciary Committee. A true and correct copy of this version of the bill, PN 2066, is appended to this Petition as Exhibit “C.”

24. HB 80, PN 2066 was limited to the subject of creating criminal penalties for the theft of secondary metals and made no mention of, and had no relation to, authorizing membership organizations or gun advocates to sue municipalities over firearms legislation.

25. On June 25, 2013, the House passed HB 80 by an overwhelming vote of 197 to 2, reflecting the immense popularity of the bill.

First Amendment of HB 80 in the Senate

26. The Senate Judiciary Committee subsequently amended the Senate version of HB 80 on June 24, 2014, to add a section amending 18 Pa. C.S. § 3503(b.1). HB 80, PN 3831, Regular Session of 2013-14, Judiciary, in Senate, as Amended, June 24, 2014 at 2. A true and correct copy of HB 80, PN 3831 is appended to this Petition as Exhibit “D.”

27. Section 3503(b.1) relates to criminal trespass, and the bill proposed to amend that provision to add “unlawfully taking secondary metal from the premises” as one of the proscribed purposes for entering or remaining in a place without license or privilege. *Id.* The title of HB 80 was amended to read as follows: “Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the offense of criminal trespass; defining the offense of theft of secondary metal; and prescribing penalties.” *Id.* at 1.

28. HB 80, PN 3831 was limited to the subject of creating criminal penalties for the theft of secondary metals and made no mention of, and had no relation to, authorizing membership organizations or gun advocates to sue municipalities over firearms legislation.

Second Amendment of HB 80 in the Senate

29. The Senate further amended the bill on its third consideration on October 6, 2014 to add a definition for “secondary metal” to 18 Pa. C.S. § 3503(d). HB No. 80, PN 4248, Regular Session of 2013-14, as Amended on Third Consideration, in Senate, Oct. 6, 2014 at 2. A true and correct copy of HB 80, PN 4248 is appended to this Petition as Exhibit “E.”

30. HB 80, PN 4248 was limited to the subject of creating criminal penalties for the theft of secondary metals and made no mention of, and had no relation to, authorizing membership organizations or gun advocates to sue municipalities over firearms legislation.

Introduction of House Bill No. 1243, a Bill to Amend the Uniform Firearms Act

31. While HB 80 was proceeding through the General Assembly, a distinct and unrelated bill, HB 1243, was also under consideration.

32. HB 1243, PN 1585 was introduced into the General Assembly and referred to the House Committee on the Judiciary on April 23, 2013. A true and correct copy of HB 1243, PN 1585 is appended to this Petition as Exhibit “F.”

33. The bill was entitled “AN ACT Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in firearms and other dangerous articles, further providing for persons not to possess, use,

manufacture, control, sell or transfer firearms and for Pennsylvania State Police.”

34. The bill included an amendment to 18 Pa. C.S. § 6111.1(f), a statute which governs the responsibility of the Pennsylvania State Police to provide “[n]otification of mental health adjudication, treatment, commitment, drug use or addiction,” to the federal authorities. The amendment made mandatory the disclosure “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[.]” *Id.* at 4-5.

35. On September 23, 2014, the House amended HB 1243 to add the provision at the core of this dispute, an amendment to 18 Pa. C.S. § 6120, granting sweeping new rights to gun advocates to enter the courts and challenge municipal legislation. HB 1243, PN 4179 Regular Session of 2013-14, as Amended on Second Consideration, House of Representatives, Sep. 23, 2014. A true and correct copy of HB 1243, PN 4179 is appended to this Petition as Exhibit “G.”

36. Section 6120 is entitled “Limitation on the regulation of firearms and ammunition,” and states that counties, municipalities and townships may not “in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when

carried or transported for purposes not prohibited by the laws of this Commonwealth.”

37. Courts have held that, without a showing of aggrievement, gun advocates and membership organizations such as the National Rifle Association lack standing to bring suits challenging local ordinances on the ground that the ordinances violate 18 Pa. C.S. § 6120. *See Nat'l Rifle Ass'n v. City of Philadelphia*, 977 A.2d 78, 81-82 (Pa. Commw. Ct. 2009) (NRA lacks standing to challenge the City’s “Imminent Danger Ordinance,” “Protection From Abuse Ordinance,” and “Lost or Stolen Gun Ordinance”); *Nat'l Rifle Ass'n v. City of Pittsburgh*, 999 A.2d 1256 (Pa. Commw. Ct. 2010) (same, for lost or stolen firearms ordinance). Upon information and belief, the amendments to HB 1243 were made in an attempt to overturn these decisions.

38. HB 1243, PN 4179 contained the following remarkable provisions that would have granted gun advocates a right of action against municipalities and would have provided for the award of attorneys fees upon rescission or repeal of the ordinance in question or final determination:

SECTION 2. 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.

39. The legislation defined “reasonable expenses” to include attorneys fees, as follows:

"REASONABLE EXPENSES." THE TERM INCLUDES, BUT IS NOT LIMITED TO, ATTORNEY FEES, EXPERT WITNESS FEES, COURT COSTS AND COMPENSATION FOR LOSS OF INCOME.

40. The legislation also contained a provision defining “person adversely affected,” which upon information and belief was tailor made for gun advocates and gun advocacy groups and is contrary to all traditional notions of aggrievement as a prerequisite for standing:

"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 PARAGRAPHS (1) OR (2).

41. The intent of the bill was to allow a single firearm owner resident anywhere in the Commonwealth, or even a resident merely legally *able* to own a firearm, to challenge ordinances throughout the Commonwealth and to empower any “membership organization” having at least one such

resident member to do the same. The bill grants not only the right to sue municipalities, but purports to bar courts from employing ordinary notions of standing and provides plaintiffs the highly unusual right to collect attorneys fees and other expenses against a county, municipality, or township that in good faith defends its law. The right to collect fees applies even if the municipality withdraws the ordinance after the filing of suit.

42. The House passed this controversial bill on October 6, 2014, and then sent it to the Senate, where it was assigned to the Senate Judiciary Committee and ultimately died in Committee.

#### Third Amendment of HB 80 in the Senate

43. With HB 1243 stalled in committee, the last voting day of the legislative session set for October 15, 2014, and an election coming in three weeks with the real prospect of changing control of the Governor's mansion, the proponents of the legislation hurriedly sought another vehicle to pass the legislation. They settled on HB 80, a completely unrelated bill on the subject of theft of secondary metals.

44. Legislative surgery was performed on HB 80 and HB 1243, grafting together these two disparate bills without even the pretense of providing an over-arching purpose. The new hybrid bill was then presented for passage.



45. On October 15, 2014, the Senate took up HB 80, and proponents of the standing legislation offered amendment A10397, which amended HB 80 to add the standing, attorneys fee and mental health provisions from HB 1243. A true and correct copy of A10397 is attached to this Petition as Exhibit “H.”

46. Following passage of the amendment, the bill became HB 80, PN 4318, Regular Session of 2013-14, as Amended on Third Consideration, in Senate, Oct. 15, 2014. A true and correct copy of HB 80, PN 4318 is appended to this Petition as Exhibit “I.” A redline highlighting the differences between the previous version of the bill, HB No. 80, PN 4248, and this print, PN 4318, is appended to this Petition as Exhibit “J.”

47. The final version of HB 80 was given a new and unwieldy title:

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; and 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.

HB 80, PN 4318, Regular Session of 2013-14, as Amended on Third Consideration, in Senate, Oct. 15, 2014 at 1.

48. The first new section the Senate added to HB 80, Section 3, amended 18 Pa. C.S. § 6111.1, a provision relating to the obligations of the

Pennsylvania State Police to provide notification of “mental health adjudication, treatment, commitment, drug use or addiction,” and providing for expungement of certain records. *Id.* at 4-5. The text was taken verbatim from the stalled HB 1243, PN 4179.

49. The second new section the Senate added to HB 80, Section 4, amended 18 Pa. C.S. § 6120, adding new subsections (a.2), (a.3), and (b) to create a new civil right of action to “a person adversely affected” by certain ordinances, regulations, rules, practices, or other actions promulgated or enforced by a county, municipality, or township and to grant standing in the courts of the Commonwealth to bring the new civil action to individuals eligible to own a firearm and for “membership organizations” with even just a single such eligible member . *Id.* at 5-7. Again, except for the correction of the word “paragraphs” to “paragraph,” the text of this section is identical to the text included in Section 2 of the stalled HB 1243, PN 4179.

50. As amended, the bill’s contents were no longer limited to subjects germane to criminal penalties for the theft of secondary metals. The bill now included legislation relating to the following topics:

- (a) Criminal penalties for the theft of secondary metals (*id.* at 1-4)
- (b) Disclosure and expungement of records by the Pennsylvania State Police (*id.* at 4-5),

- (c) Creation of a civil right of action against municipalities (*id.* at 4-6),
- (d) Providing standing to a new class of firearm owners, eligible residents and “membership organizations” in contravention of well established judicial principles (*id.*), and
- (e) Providing for attorneys fees to a prevailing plaintiff (*id.* at 5-6).

51. As amended, the bill’s purpose had changed from only providing criminal penalties for the theft of secondary metal to also creating a new civil cause of action to allow damages—including awards of “attorney fees, expert witness fees, court costs and compensation of loss of income” (*id.* at 7)—and injunctive relief against municipalities who engage in prohibited regulation of firearms or ammunition. *Id.* at 5.

#### Passage of HB 80

52. The Senate passed the final version of the bill the very next day, on October 16, 2014, and returned the bill to the House. The Senate then adjourned.

53. The House concurred in the Senate amendments and passed the bill on October 20, 2014. In fact, the vote on HB 80 in the House was the very last legislative act of the House before adjournment.

### Failed First Attempt to Enact HB 80

54. As part of the rush to enact HB 80 before the election, Respondent Samuel H. Smith, as the presiding officer of the House of Representatives, signed what he thought was the official version of the bill in the House on October 20, 2014.

55. As Speaker Smith later explained to the Governor in his letter of November 5, 2014 (appended to this petition as Exhibit “K”), the document he signed and passed along to the President of the Senate was, in fact, not the bill the House and Senate had passed, but rather “the wrong printer’s number, PN. 4248,” representing a previous version of the bill which only included the secondary metals provisions. Letter of Nov. 5, 2014 at 1.

56. The President Pro Tempore of the Senate, as its presiding officer, signed the incorrect bill in the Senate on October 22, 2014. The President Pro Tempore, too, failed to notice that the bill was not the bill the Senate had passed.

57. On October 28, 2014, Governor Corbett held a public signing ceremony at the Dormont Mt. Lebanon Sportsmen Club in Canonsburg, Pennsylvania. The Governor offered hearty and robust congratulations to the gun lobby on the passage of the new legislation. He made no mention of secondary metals. Nor did he realize, as he was affixing his pen to paper,

that the four page document in front of him was not in fact the bill passed by the General Assembly, and did not contain even a single reference to the subject referenced in his signing statement that had been added in haste to the previously non-controversial bill. The bill signed by the Governor actually addressed only the subject of theft of secondary metals. Act No. 192, House No. 80, Session of 2014, as received Oct. 29, 2014 by Pa. Dep't of State (appended to this petition as Exhibit "L").

Second Attempt to Enact HB 80

58. On November 5, 2014, the House of Representatives reconvened on short notice for a "token session," and Respondent Samuel H. Smith, as the presiding officer of the House of Representatives, signed the version of the bill that had actually been passed by the House on October 20, 2014. The electronic online record of the proceedings relating to HB 80 was amended to remove the reference to the earlier signing and substitute the date of November 5, 2014, for the date of execution by the Speaker.

59. At 5 P.M. that day, the Senate was notified that it was being called back for a "token session" the following morning, and on November 6, 2014, Lieutenant Governor Cawley, as the presiding officer of the Senate, opened the session and signed the version of the bill that had actually been passed by the Senate on October 16, 2014.

60. Governor Corbett signed HB 80, PN 4318 on the afternoon of November 6, 2014, and it is now known as Act 192. Act No. 192, House No. 80, Session of 2014, as received Nov. 6, 2014 by Pa. Dep't of State (appended to this petition as Exhibit "M").

61. By its terms, Act 192 becomes effective 60 days after the Governor's signature, on January 5, 2015.

#### **IV. Standing**

##### Legislative Petitioners

62. Senators Leach, Hughes, and Farnese, and Representatives Parker and Gainey (collectively the "Legislative Petitioners") have standing to bring claims for declaratory and injunctive relief arising out of the violation of Article III, Sections 1 and 3 of the Pennsylvania Constitution, due to their interest in maintaining the integrity of the legislative process, to vindicate their right to vote on bills with a single subject and an unchanged purpose, and to ensure that legislation is passed in conformity with the Pennsylvania Constitution.

##### City of Philadelphia

63. The City of Philadelphia faces an extraordinary burden in protecting its citizens from the horrors of gun violence. From the start of 2014 through the date the Governor first tried to sign Act 192 into law, there

were more than 1,748 aggravated assaults involving a gun, 2,345 robberies involving a gun, and 208 homicides in Philadelphia. *See Philadelphia Police Department Major Crimes Report, Week 43, 2014.* In 2013, 201 persons were murdered by gunshot in Philadelphia, and 1,128 persons were shooting victims. *See Murder/Shooting Analysis 2013 at 4.*

64. In light of this burden and the dangers gun violence poses to the City of Philadelphia's residents, visitors, workers, and others every day, City of Philadelphia government has a paramount responsibility to do everything within its power to reduce, prevent, and stop this scourge.

65. The City of Philadelphia fully recognizes that its powers are not unlimited in this regard, and are expressly limited by certain Acts of the General Assembly. But within authorized limits, the City of Philadelphia has exercised and intends to continue to exercise its duty to protect the public to the fullest extent possible.

66. Act 192 has a severe chilling effect on those efforts, in that the City of Philadelphia now has to concern itself with abstract lawsuits by persons unaffected by its ordinances, to whom the City of Philadelphia may have to pay bounties, in the form of attorneys fees, in the event a court disagrees with the City's reasonable legal calculus that a public safety initiative is indeed within its lawful authority. Where a defendant (including

a public entity) takes a frivolous position in court, a plaintiff should be awarded attorneys fees, but where a defendant (*especially* a public entity) takes a reasonable position that proves wrong, the legal scales should not be tilted against the interests of public safety, punitively assessing fees for making an incorrect legal prediction.

67. The City of Philadelphia has adopted numerous ordinances that it reasonably believes are within the City of Philadelphia's lawful home rule authority granted by the General Assembly. Based on numerous public statements by firearms owners and advocates, and as a direct result of the enactment of Act 192, the City of Philadelphia expects to be challenged in court on each and every one of these ordinances, including by persons who are not even remotely affected thereby. These expected challenges will burden the courts with abstract lawsuits, will cost substantial sums in defense costs, will force resolution of important public policy and legislative interpretation questions without a real party in interest present before the court, will risk the payment of public dollars to private interest groups who have suffered no concrete harm, and will chill further legislative efforts by the City of Philadelphia to protect public safety.

68. This Court has already rejected challenges to three City of Philadelphia ordinances relating to firearms, for failure of the plaintiffs to



establish aggrievement. *See Nat'l Rifle Ass'n v. City of Philadelphia*, 977 A.2d 78, 81-82 (Pa. Commw. Ct. 2009) (NRA lacks standing to challenge the City's "Imminent Danger Ordinance," "Protection From Abuse Ordinance," and "Lost or Stolen Gun Ordinance"). As a direct result of the enactment of Act 192, the City of Philadelphia and the courts will now have to revisit these lawsuits, already determined inappropriate for judicial resolution.

69. This Court has invalidated several City of Philadelphia ordinances relating to firearms as preempted by State law. *See Nat'l Rifle Ass'n v. City of Philadelphia*, 977 A.2d at 82-83 (invalidating "Assault Weapons Ordinance" and "Straw Purchaser Ordinance"). The City of Philadelphia has not engaged the legislative machinery to formally repeal these ordinances, as it is judicially precluded from enforcing them, is not enforcing them, and, thus, the ordinances are effectively a nullity. They remain on the books largely based on the hope that the General Assembly will one day allow sensible regulation of firearm possession by municipalities. Act 192 will compel the Philadelphia City Council to take the useless and pointless step of formally repealing these ordinances, which ordinances have no effect, solely to avoid litigation that would have no purpose other than to extract attorneys fees.

70. The City of Philadelphia has a significant and effective lobbying presence in Harrisburg, in order to protect its interests against, *inter alia*, special interest legislation that would burden the City of Philadelphia's ability to fulfill its core public responsibility of protecting the public safety.

71. The initial appearance of the pernicious amendment of HB 80 relating to standing and attorneys fees only one calendar day before adoption by the full Senate and only three business days before adoption by the House substantially and irreparably impeded the City of Philadelphia's ability to effectively mount an opposition to this dangerous legislation. By completely changing the purpose of HB 80 and by including multiple disparate subjects in HB 80, the City of Philadelphia's ability to protect its own interests and its interest in public safety was stymied, as there was no opportunity for legitimate public debate on an issue of overriding public importance.

72. Legislators may well have voted on HB 80 without any appreciation of its content, let alone its grave significance, given the substantial flaws in the enactment process. The City of Philadelphia, thus, was denied an opportunity for genuine, deliberative discussion and informed debate and voting on this controversial and consequential legislation.

City of Pittsburgh and City of Lancaster

73. Gun violence poses a real and ever present danger to the residents, visitors, workers, and others in the Cities of Pittsburgh and Lancaster. Within authorized limits, the Cities of Pittsburgh and Lancaster have exercised and intend to continue to exercise their duty to protect the public from gun violence.

74. Act 192 has a severe chilling effect on those efforts. Based on numerous public statements by firearms owners and advocates, and as a direct result of the enactment of Act 192, the Cities of Pittsburgh and Lancaster expect to be challenged in court on each and every one of these ordinances, including by persons who are not even remotely affected thereby. These expected challenges will burden the courts with abstract lawsuits, will cost the Cities substantial sums in defense costs, will force resolution of important public policy and legislative interpretation questions without a real party in interest present before the court, will risk the payment of public dollars to private interest groups who have suffered no concrete harm, and will chill further legislative efforts to protect public safety.

75. This Court has already rejected a challenge to the City of Pittsburgh's Ordinance No. 26-2008, codified in the Pittsburgh Code of Ordinances, Ch. 624, Lost and Stolen Firearms, for failure of the plaintiffs to

establish aggrievement. *See Nat'l Rifle Ass'n v. City of Pittsburgh*, 999 A.2d 1256 (Pa. Commw. Ct. 2010) (NRA lacks standing to challenge Pittsburgh's lost or stolen firearms ordinance). Just as is the case for the City of Philadelphia, as a direct result of the enactment of Act 192, the City of Pittsburgh and the courts will now have to revisit this lawsuit, which this Court has already determined inappropriate for judicial resolution.

76. The City of Lancaster has a similar ordinance requiring reporting of lost or stolen firearms, which the city expects to be challenged under Act 192. Lancaster Ord. No. 9-2009, codified in Lancaster City Code Ch.140, Reporting of Lost or Stolen Firearms.

77. The Cities of Pittsburgh and Lancaster are intensely interested in and follow closely developments in the General Assembly. The initial appearance of the pernicious amendment of HB 80 relating to standing and attorneys fees only one calendar day before adoption by the full Senate and only three business days before adoption by the House substantially and irreparably impeded their ability to effectively mount an opposition to this dangerous legislation. By completely changing the purpose of HB 80 and by including multiple disparate subjects in HB 80, the ability to protect their own interests and their interest in public safety was stymied, as there was no

opportunity for legitimate public debate on an issue of overriding public importance.

## **V. Claims for Relief**

### Count I—Violation of Article III, Section 1 of the Pennsylvania Constitution

78. Petitioners incorporate by reference paragraphs 1 through 77 above as though fully set forth herein.

79. Article III, Section 1 of the Pennsylvania Constitution states:

No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either House, as to change its original purpose.

80. This constitutional requirement is an important part of assuring that proper notice is given to legislators and the public as to the contents of the bills under consideration in the General Assembly. Without such protection, legislators or members of the public who believed that they had already considered a particular subject in prior readings could be deceived by a change in the underlying purpose.

81. Act 192 violates Article III, Section 1 because the original purpose of HB 80 was to create criminal penalties for the theft of secondary metal and on passage through the Senate, the purpose was changed to include completely unrelated legislation concerning the following topics:

- (a) Disclosure and expungement of records by the Pennsylvania State Police;
- (b) Creation of a civil right of action against municipalities;
- (c) Providing standing to a new class of firearm owners, eligible residents and “membership organizations” in contravention of well established judicial principles; and
- (d) Providing for attorneys fees to a prevailing plaintiff.

82. As a result of the violation of Article III, Section 1, Petitioners were harmed in that they were deprived of the opportunity to participate in the constitutionally mandated legislative process, as HB 80 was rushed through the General Assembly without providing the public with notice and an opportunity to comment, and without providing the legislators with time to carefully consider and debate the legislation before voting on it.

83. The harm to Petitioners is irreparable in that the legislation has already been adopted and the General Assembly has adjourned.

84. Unless enjoined, Act 192 will cause irreparable harm to the Cities of Philadelphia, Pittsburgh, and Lancaster, which will be forced to defend lawsuits brought under an unconstitutional statute, to expend funds in connection with the defense of such lawsuits, including the possible payment

of attorneys fees, and be subject to illegal harassment by parties granted standing under Act 192.

Count II—Violation of Article III, Section 3 of the Pennsylvania Constitution

85. Petitioners incorporate by reference paragraphs 1 through 77 above as though fully set forth herein.

86. Article III, Section 3 of the Pennsylvania Constitution states:

No bill shall be passed containing more than one subject, which shall be clearly expressed in its title, except a general appropriation bill or a bill codifying or compiling the law or a part thereof.

87. Act 192 violates Article III, Section 3 because it contains legislation directed to more than one subject and is not a general appropriations bill or a bill codifying or compiling the laws or a part thereof.

88. The requirements of Article 3, Section 3 are mandatory. Its twin protections – a requirement that there be only one subject and the requirement that the subject be “clearly expressed” in the title – are intended to put legislators and the public on notice of what the subject is, so that legislation is not passed by negligence, oversight, stealth or deception. Section 3 was also enacted to prevent the evils of “logrolling” in which two bills that cannot obtain passage on their own are combined into one, thereby avoiding fair consideration of each subject on its individual merits.

89. Act 192 contains legislation relating to multiple subjects that are not germane to a common purpose.

90. The title of the final version of HB 80 fails to comply with the requirement that the title “clearly express[]” its subject in that the phrase “for a limitation on the regulation of firearms and ammunition” does not fully or fairly describe the amendments added to HB 80 on October 15, 2014, which granted an unprecedented right of standing to sue, together with the right to collect attorneys fees and expenses, to certain individuals and to membership organizations purporting to represent them.

91. As a result of the unconstitutional procedure employed to pass HB 80, legislators were required to digest, consider and debate a bill consisting of subjects that were not germane to a single topic, but instead reflected vastly disparate policy and programmatic objectives and methods, covering court access, civil actions, and records management, in addition to the crime of theft of secondary metals.

92. As a result of the violation of Article III, Section 3, neither the General Assembly nor the public had proper notice of the contents of the bill that became Act 192; nor did the General Assembly have the opportunity to vote with circumspection and on individual pieces of legislation.



93. As a result of the violations of Article III, Section 3, Petitioners were harmed in that they were deprived of the opportunity to participate in the constitutionally mandated legislative process.

94. The harm to Petitioners is irreparable in that the legislation has already been adopted and the General Assembly has adjourned.

95. Unless enjoined, Act 192 will cause irreparable harm to the Cities of Philadelphia, Pittsburgh, and Lancaster, which will be forced to defend lawsuits brought under an unconstitutional statute, to expend funds in connection with the defense of these lawsuits, including the possible payment of attorneys fees, and be subject to illegal harassment by parties granted standing under Act 192.

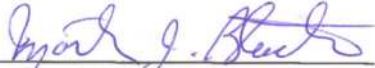
**Prayer for Relief**

WHEREFORE, Petitioners pray that this Honorable Court:

1. Declare Act 192 unconstitutional and void;
2. Enjoin the Commonwealth from enforcing any provisions of Act 192 or taking any actions in accordance with Act 192; and
3. Grant such other and further relief as may be just and proper.

Respectfully submitted,

DECHERT LLP



MARTIN J. BLACK

Pa. Bar. No. 54319

ROBERT L. MASTERSON

Pa. Bar. No. 307801

*Attorneys for Petitioners Senator Daylin Leach, Senator Vincent J. Hughes,  
Senator Lawrence M. Farnese, Representative Cherelle L. Parker,  
Representative Edward C. Gainey, the City of Pittsburgh, and the City of  
Lancaster*

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CITY OF PHILADELPHIA LAW DEPARTMENT

SHELLEY R. SMITH, City Solicitor



Richard Feder, Pa. Bar No. 55343

Chief Deputy City Solicitor, Appeals and Legislation

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Senior Attorney, Appeals

*Attorneys for Petitioner City of Philadelphia*

City of Philadelphia Law Department

1515 Arch Street, 17th Floor

Philadelphia, PA 19102-1595

(215) 683-5013

November 6, 2014

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

DAYLIN LEACH, Minority Chairman of the :  
Senate Judiciary Committee and Senator :  
Representing the 17th Senatorial District, :  
VINCENT J. HUGHES, Senator Representing :  
the 7th Senatorial District, LAWRENCE M. :  
FARNESE, Senator Representing the 1st :  
Senatorial District, CHERELLE L. PARKER, :  
Representative for the 200th House District, :  
EDWARD C. GAINEY, Representative for the :  
24th House District, the CITY OF :  
PHILADELPHIA, the CITY OF PITTSBURGH, :  
and the CITY OF LANCASTER :

Petitioners, :

v. :

No. 2014  
ORIGINAL  
JURISDICTION

COMMONWEALTH OF PENNSYLVANIA, :  
SAMUEL H. SMITH, Speaker of the House of :  
Representatives, JAMES F. CAWLEY, Lieutenant :  
Governor of the Commonwealth of Pennsylvania, :  
and THOMAS WINGETT CORBETT, :  
Governor of the Commonwealth of Pennsylvania, :

Respondents. :

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving the foregoing Petition  
for Review upon the persons and in the manner indicated below, which

service satisfies the requirements of Rules 121 and 1514 of the Pennsylvania

Rules of Appellate Procedure:

Service by first class certified mail addressed as follows

Kathleen Kane, Attorney General  
Pennsylvania Office of Attorney General  
Strawberry Square  
Harrisburg, PA 17120  
(717) 787-3391

James D. Schultz, General Counsel  
Governor's Office of General Counsel  
333 Market St., 17th Floor  
Harrisburg, PA 17101  
(717) 783-6563

Hon. Samuel H. Smith, Speaker of the House  
139 Main Capitol Building  
PO Box 202066  
Harrisburg, PA 17120-2066  
(717) 787-3845

James F. Cawley, Lt. Governor  
200 Main Capitol Building  
Harrisburg, PA 17120  
(717) 787-3300

Thomas Wingett Corbett, Governor  
Office of the Governor  
225 Capitol Building  
Harrisburg, PA 17120  
(717) 787-2500

DECHERT LLP

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MARTIN J. BLACK

Pa. Bar. No. 54319

ROBERT L. MASTERSON

Pa. Bar. No. 307801

*Attorneys for Petitioners Senator Daylin Leach, Senator Vincent J. Hughes,  
Senator Lawrence M. Farnese, Representative Cherelle L. Parker,  
Representative Edward C. Gainey, the City of Pittsburgh, and the City of  
Lancaster*

Dechert LLP

Cira Centre

2929 Arch Street

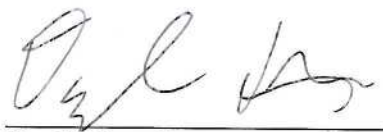
Philadelphia, PA 19104

(215) 994-4000

November 10, 2014

VERIFICATION

I, Daylin Leach, hereby state that I am a Pennsylvania Senator  
Representing the 17th Senatorial District; that I have read the allegations of the  
foregoing Petition for Review and that they are true and correct to the best of my  
knowledge, information and belief; and that I understand that the foregoing  
verification is subject to the penalties of 18 Pa. C.S. §4904 regarding unsworn  
falsifications to authorities.

A handwritten signature in black ink, appearing to read 'Daylin Leach', written over a horizontal line.

Daylin Leach

Dated: November 6, 2014

**VERIFICATION**

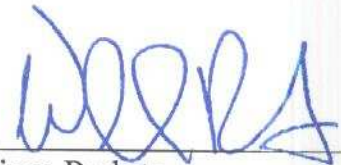
I, Everett A. Gillison, Esq., hereby state that I am the Chief of Staff to Mayor Michael A. Nutter of the City of Philadelphia, and the Deputy Mayor for Public Safety; that I am authorized to make this verification on behalf of the City of Philadelphia in the foregoing Petition for Review in the Nature of Complaint in Equity; that I have read the allegations of the foregoing Petition for Review and that they are true and correct to the best of my knowledge, information and belief; and that I understand that the foregoing verification is subject to the penalties of 18 Pa. C.S. §4904 regarding unsworn falsifications to authorities.

  
Everett Gillison

Dated: November 7<sup>th</sup>, 2014

**VERIFICATION**

I, William Peduto, hereby state that I am the Mayor of the City of Pittsburgh; that I am authorized to make this verification on behalf of the City of Pittsburgh in the foregoing Petition for Review in the Nature of Complaint in Equity; that I have read the allegations of the foregoing Petition for Review and that they are true and correct to the best of my knowledge, information and belief; and that I understand that the foregoing verification is subject to the penalties of 18 Pa. C.S. §4904 regarding unsworn falsifications to authorities.



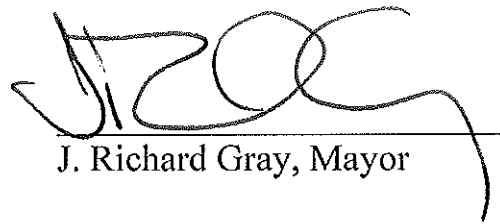
\_\_\_\_\_  
William Peduto

Dated: November 6, 2014



**VERIFICATION**

I, J. Richard Gray, hereby state that I am Mayor of the City of Lancaster; that I am authorized to make this verification on behalf of the City of Lancaster in the foregoing Petition for Review in the Nature of Complaint in Equity; that I have read the allegations of the foregoing Petition for Review and that they are true and correct to the best of my knowledge, information and belief; and that I understand that the foregoing verification is subject to the penalties of 18 Pa. C.S. §4904 regarding unsworn falsifications to authorities.

A handwritten signature in black ink, appearing to read 'JR Gray', is written over a horizontal line. The signature is stylized and cursive.

J. Richard Gray, Mayor

Dated: November 6, 2014

# **EXHIBIT A**

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 80 Session of  
2013

INTRODUCED BY METCALFE, CLYMER, D. COSTA, COX, GILLEN, GROVE, C.  
HARRIS, HESS, KAUFFMAN, KORTZ, LONGIETTI, MILLARD, O'NEILL,  
PASHINSKI, PETRI, READSHAW, ROCK, SAYLOR, SWANGER, TOEPEL AND  
WATSON, JANUARY 10, 2013

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 10, 2013

## AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining the offense of theft of secondary metal; and prescribing penalties.

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

Section 1. Title 18 of the Pennsylvania Consolidated Statutes 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 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 substantially similar to an offense under this section.

(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 2. This act shall take effect in 60 days.

# **EXHIBIT B**

[Home](#) / [House Co-Sponsorship Memoranda](#)

## House Co-Sponsorship Memoranda

### MEMORANDUM

**Posted:** December 10, 2012 10:47 AM

**From:** [Representative Daryl Metcalfe](#)

**To:** All House members

**Subject:** Theft of Secondary Metals

I have been contacted by a number of business owners in my district who have been the victims of theft of copper wiring and other scrap metals used in business.

As it turns out, the theft of this material is a problem in many states. According to the National Conference of State Legislatures, thieves risk their lives to strip wiring and piping from homes, utility properties, and electrical infrastructure, resulting in power disruptions and revenue losses. Stealing copper and other metals from utilities can cause major electric outages, and expensive repairs impact ratepayers. The Department of Energy estimates that a theft of just \$100 in copper wire can cost the utility more than \$5,000 to repair.

Consequently, this legislation creates the offence of Theft of Secondary Metal. The new section in the Crimes Code states, "A person is guilty of theft of secondary metal if he 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."

The term "secondary metal" is defined as, "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 combination of metals, that is valuable for the recycling or reuse as raw material."

The grading of the offense follows the scheme of other theft offenses found in the Crimes Code in that the grading is enhanced when the value of the secondary metal increases. Thus, an offense constitutes a misdemeanor of the second degree when the value of the secondary metal unlawfully obtained is less than \$50. When the value of the secondary metal unlawfully obtained is \$50 but less than \$200, the offense constitutes a misdemeanor of the first degree. When the value of the secondary metal unlawfully obtained is \$200 but less than \$1,000, the offense constitutes a felony of the third degree. When the value of the secondary metal unlawfully obtained exceeds \$1,000, the offense constitutes a felony of the second degree. A third of subsequent offense constitutes a felony of the second degree when the offense is a third or subsequent offense, regardless of the value of the secondary metal.



Introduced as [HB80](#)

# **EXHIBIT C**

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 80** Session of  
2013

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INTRODUCED BY METCALFE, CLYMER, D. COSTA, COX, GILLEN, GROVE,  
C. HARRIS, HESS, KAUFFMAN, KORTZ, LONGIETTI, MILLARD,  
O'NEILL, PASHINSKI, PETRI, READSHAW, ROCK, SAYLOR, SWANGER,  
TOEPEL, WATSON, FREEMAN, R. MILLER, MULLERY, GABLER, FARRY,  
EVANKOVICH, TOOHIL AND MARSHALL, JANUARY 10, 2013

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AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 18, 2013

---

## AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
Consolidated Statutes, defining the offense of theft of  
secondary metal; and prescribing penalties.

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

Section 1. Title 18 of the Pennsylvania Consolidated  
Statutes 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 ~~substantially similar to an offense under this section~~ 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 2. This act shall take effect in 60 days.

# **EXHIBIT D**

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 80 Session of  
2013

---

INTRODUCED BY METCALFE, CLYMER, D. COSTA, COX, GILLEN, GROVE,  
C. HARRIS, HESS, KAUFFMAN, KORTZ, LONGIETTI, MILLARD,  
O'NEILL, PASHINSKI, PETRI, READSHAW, ROCK, SAYLOR, SWANGER,  
TOEPEL, WATSON, FREEMAN, R. MILLER, MULLERY, GABLER, FARRY,  
EVANKOVICH, TOOHIL, MARSHALL AND CALTAGIRONE,  
JANUARY 10, 2013

---

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,  
JUNE 24, 2014

---

AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
Consolidated Statutes, FURTHER PROVIDING FOR THE OFFENSE OF  
CRIMINAL TRESPASS; defining the offense of theft of secondary  
metal; and prescribing penalties.

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

~~Section 1. Title 18 of the Pennsylvania Consolidated  
Statutes is amended by adding a section to read:~~

SECTION 1. SECTION 3503(B.1) OF TITLE 18 OF THE PENNSYLVANIA  
CONSOLIDATED STATUTES IS 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.

\* \* \*

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 ~~2~~ 3. This act shall take effect in 60 days.

# **EXHIBIT E**

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 80

Session of  
2013

INTRODUCED BY METCALFE, CLYMER, D. COSTA, COX, GILLEN, GROVE,  
C. HARRIS, HESS, KAUFFMAN, KORTZ, LONGIETTI, MILLARD,  
O'NEILL, PASHINSKI, PETRI, READSHAW, ROCK, SAYLOR, SWANGER,  
TOEPEL, WATSON, FREEMAN, R. MILLER, MULLERY, GABLER, FARRY,  
EVANKOVICH, TOOHIL, MARSHALL AND CALTAGIRONE,  
JANUARY 10, 2013

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 6, 2014

AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
Consolidated Statutes, FURTHER PROVIDING FOR THE OFFENSE OF  
CRIMINAL TRESPASS; defining the offense of theft of secondary  
metal; and prescribing penalties.

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

~~Section 1. Title 18 of the Pennsylvania Consolidated  
Statutes is amended by adding a section to read:~~

~~SECTION 1. SECTION 3503(B.1) OF TITLE 18 OF THE PENNSYLVANIA  
CONSOLIDATED STATUTES IS AMENDED TO READ:~~

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 ~~2~~ 3. This act shall take effect in 60 days.

# **EXHIBIT F**

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1243 Session of  
2013

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INTRODUCED BY STEPHENS, ADOLPH, BOBACK, R. BROWN, V. BROWN,  
CALTAGIRONE, CARROLL, DEAN, FABRIZIO, FARRY, GABLER,  
GINGRICH, GRELL, GROVE, HARPER, W. KELLER, KORTZ, MILLER,  
MOLCHANY, MURT, MUSTIO, O'BRIEN, O'NEILL, PARKER, PASHINSKI,  
SANTARSIERO, SCHLOSSBERG, STURLA, TOEPEL, TOOHIL, TRUITT,  
VEREB AND WATSON, APRIL 23, 2013

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REFERRED TO COMMITTEE ON JUDICIARY, APRIL 23, 2013

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AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in firearms and other dangerous articles, further providing for persons not to possess, use, manufacture, control, sell or transfer firearms and for Pennsylvania State Police.

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

Section 1. Sections 6105(f)(1) and (j) and 6111.1(f)(3) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 6105. Persons not to possess, use, manufacture, control, sell or transfer firearms.

\* \* \*

(f) Other exemptions and proceedings.--

[(1) Upon application to the court of common pleas under this subsection by an applicant subject to the prohibitions under subsection (c)(4), the court may grant such relief as

it deems appropriate if the court determines that the applicant may possess a firearm without risk to the applicant or any other person.]

(1) (i) Any person subject to the prohibitions under subsection (c)(4), or who is prohibited from possessing firearms under 18 U.S.C. § 922(d)(4) or (g)(4) (relating to unlawful acts) as a result of actions taken under the laws of this Commonwealth, may apply to the court of common pleas for relief. The court shall grant relief if the court determines by clear and convincing evidence and makes findings that the applicant does not present a risk of harm to the applicant or any other person, will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. The court order, whether denying or granting relief, shall also be supported by findings of fact and conclusions of law. In making its decision, the court shall receive and consider evidence relating to the following:

(A) The circumstances of the original commitment, appointment of a guardian or other finding of incompetency or incapacity.

(B) The applicant's mental health records, including the original commitment application and any related order, or other finding of incompetency or incapacity and medical records relating to any hospitalization resulting from the involuntary commitment, if any.

(C) The applicant's criminal history record.

(D) The applicant's character and reputation.

(E) Changes in the applicant's condition or circumstances relevant to the relief sought.

(ii) The application shall be made to the court of common pleas in either the applicant's county of residence or the county of adjudication or commitment.

The applicant shall bear the burden of proof. No application may be made until two years have elapsed from date of the imposition of the disability. The application shall be served upon the following parties, who shall have standing to appear and contest the application:

(A) The district attorney of the county where the application is filed.

(B) The Firearms Division of the Pennsylvania State Police.

(C) The county mental health agency where the commitment or adjudication occurred.

(iii) Any party shall have the right of appeal to Superior Court. A person may only file a subsequent application under this paragraph after three years have elapsed from the conclusion of the prior proceeding, including any appeal, which resulted in a denial under this paragraph.

(iv) Notwithstanding any law to the contrary, the judges of the courts of common pleas, mental health review officers and county mental health and mental retardation administrators shall disclose to the district attorney of the county where the application is filed and to the Pennsylvania State Police any records in their

possession which are to be received by a court consistent with subparagraph (i) when such request is made in conjunction with a proceeding under this paragraph. The district attorney of the county where the application is filed and the Pennsylvania State Police may, in their discretion, disclose the information to any person or entity whenever necessary in accordance with this paragraph.

\* \* \*

(j) Copy of order to State Police.--

(1) If [the court grants relief from the disabilities imposed under this section] a court grants any relief authorized by this section, a copy of the order shall be sent by the prothonotary or Clerk of Court within ten days of the entry of the order to the Pennsylvania State Police and shall include the name, date of birth and Social Security number of the individual.

(2) In all cases of relief authorized under this section, the Pennsylvania State Police shall, upon the expiration of any applicable appeal period, take all steps necessary to comply with the order, including, when required, notifying the Federal Bureau of Investigation and the National Instant Check System, regarding the order.

§ 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 48 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.

\* \* \*

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



# **EXHIBIT G**

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 1243** Session of  
2013

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INTRODUCED BY STEPHENS, ADOLPH, BOBACK, R. BROWN, V. BROWN, CALTAGIRONE, CARROLL, DEAN, FABRIZIO, FARRY, GABLER, GINGRICH, GRELL, GROVE, HARPER, W. KELLER, KORTZ, R. MILLER, MOLCHANY, MURT, MUSTIO, O'BRIEN, O'NEILL, PARKER, PASHINSKI, SANTARSIERO, SCHLOSSBERG, STURLA, TOEPEL, TOOHIL, TRUITT, VEREB, WATSON, KAMPF, KILLION, HACKETT, JAMES, MIRANDA AND DAVIDSON, APRIL 23, 2013

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, SEPTEMBER 23, 2014

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## AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in firearms and other dangerous articles, further providing ~~for persons not to possess, use, manufacture, control, sell or transfer firearms~~ and 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. ~~Sections 6105(f)(1) and (j) and 6111.1(f)(3)~~  
SECTION 6111.1(F)(3) AND (G)(1) AND (3) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

~~§ 6105. Persons not to possess, use, manufacture, control, sell or transfer firearms.~~

~~\* \* \*~~

~~(f) Other exemptions and proceedings.—~~

~~†(1) Upon application to the court of common pleas under~~

~~this subsection by an applicant subject to the prohibitions under subsection (c)(4), the court may grant such relief as it deems appropriate if the court determines that the applicant may possess a firearm without risk to the applicant or any other person.]~~

~~(1) (i) Any person subject to the prohibitions under subsection (c)(4), or who is prohibited from possessing firearms under 18 U.S.C. § 922(d)(4) or (g)(4) (relating to unlawful acts) as a result of actions taken under the laws of this Commonwealth, may apply to the court of common pleas for relief. The court shall grant relief if the court determines by clear and convincing evidence and makes findings that the applicant does not present a risk of harm to the applicant or any other person, will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. The court order, whether denying or granting relief, shall also be supported by findings of fact and conclusions of law. In making its decision, the court shall receive and consider evidence relating to the following:~~

~~(A) The circumstances of the original commitment, appointment of a guardian or other finding of incompetency or incapacity.~~

~~(B) The applicant's mental health records, including the original commitment application and any related order, or other finding of incompetency or incapacity and medical records relating to any hospitalization resulting from the involuntary~~

commitment, if any.

~~(C) The applicant's criminal history record.~~

~~(D) The applicant's character and reputation.~~

~~(E) Changes in the applicant's condition or circumstances relevant to the relief sought.~~

~~(ii) The application shall be made to the court of common pleas in either the applicant's county of residence or the county of adjudication or commitment. The applicant shall bear the burden of proof. No application may be made until two years have elapsed from date of the imposition of the disability. The application shall be served upon the following parties, who shall have standing to appear and contest the application:~~

~~(A) The district attorney of the county where the application is filed.~~

~~(B) The Firearms Division of the Pennsylvania State Police.~~

~~(C) The county mental health agency where the commitment or adjudication occurred.~~

~~(iii) Any party shall have the right of appeal to Superior Court. Appeal shall be subject to a de novo standard of review. A person may only file a subsequent application under this paragraph after three years have elapsed from the conclusion of the prior proceeding, including any appeal, which resulted in a denial under this paragraph.~~

~~(iv) Notwithstanding any law to the contrary, the judges of the courts of common pleas, mental health review officers and county mental health and mental~~

~~retardation administrators shall disclose to the district attorney of the county where the application is filed and to the Pennsylvania State Police any records in their possession which are to be received by a court consistent with subparagraph (i) when such request is made in conjunction with a proceeding under this paragraph. The district attorney of the county where the application is filed and the Pennsylvania State Police may, in their discretion, disclose the information to any person or entity whenever necessary in accordance with this paragraph.~~

~~\* \* \*~~

~~(j) Copy of order to State Police.~~

~~(1) If [the court grants relief from the disabilities imposed under this section] a court grants any relief authorized by this section, a copy of the order shall be sent by the prothonotary or Clerk of Court within ten days of the entry of the order to the Pennsylvania State Police and shall include the name, date of birth and Social Security number of the individual.~~

~~(2) In all cases of relief authorized under this section, the Pennsylvania State Police shall, upon the expiration of any applicable appeal period, take all steps necessary to comply with the order, including, when required, notifying the Attorney General of the United States, the Federal Bureau of Investigation and the National Instant Check System, regarding the order.~~

§ 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 48 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 2. 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 PARAGRAPHS (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 ~~2~~ 3. This act shall take effect in 60 days.



# **EXHIBIT H**

## AMENDMENTS TO HOUSE BILL NO. 80

Sponsor: SENATOR ALLOWAY

Printer's No. 4248

Amend Bill, page 1, line 2, by inserting after "Statutes,"  
in burglary and other criminal intrusion,

Amend Bill, page 1, line 4, by striking out "and"

Amend Bill, page 1, line 4, by inserting after "penalties"  
; and, in firearms and other dangerous articles, further  
providing for Pennsylvania State Police and for limitation on  
the regulation of firearms and ammunition

Amend Bill, page 4, by inserting between lines 2 and 3

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 paragraphs (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.

Amend Bill, page 4, line 3, by striking out "3" and inserting

# **EXHIBIT I**

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 80 Session of  
2013

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INTRODUCED BY METCALFE, CLYMER, D. COSTA, COX, GILLEN, GROVE,  
C. HARRIS, HESS, KAUFFMAN, KORTZ, LONGIETTI, MILLARD,  
O'NEILL, PASHINSKI, PETRI, READSHAW, ROCK, SAYLOR, SWANGER,  
TOEPEL, WATSON, FREEMAN, R. MILLER, MULLERY, GABLER, FARRY,  
EVANKOVICH, TOOHIL, MARSHALL AND CALTAGIRONE,  
JANUARY 10, 2013

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AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 15, 2014

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AN ACT

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; ~~and~~ 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. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:~~

~~SECTION 1. SECTION 3503(B.1) OF TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO READ:~~

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 ~~2~~ ~~3~~ 5. This act shall take effect in 60 days.

# **EXHIBIT J**

SENATE AMENDED

PRIOR PRINTER'S NOS. 68, 2066, ~~3831~~3831,  
4248

PRINTER'S NO.  
~~4248~~4318

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

No. **80** Session of  
2013

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INTRODUCED BY METCALFE, CLYMER, D. COSTA, COX, GILLEN, GROVE, C.  
HARRIS, HESS, KAUFFMAN, KORTZ, LONGIETTI, MILLARD, O'NEILL,  
PASHINSKI, PETRI, READSHAW, ROCK, SAYLOR, SWANGER, TOEPEL,  
WATSON, FREEMAN, R. MILLER, MULLERY, GABLER, FARRY, EVANKOVICH,  
TOOHIL, MARSHALL AND CALTAGIRONE, JANUARY 10, 2013

---

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER ~~6~~15, 2014

---

AN ACT

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; ~~and~~ 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. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:~~

~~SECTION 1. SECTION 3503(B.1) OF TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO READ:~~

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 ~~2~~ 3-3 5. This act shall take effect in 60 days.

Document comparison by Workshare Compare on Wednesday, November 05, 2014 7:16:46 PM

Input:	
Document 1 ID	file://W:\Robert Masterson\HB80_Challenge\Bill_Versions\HB0080P4248.rtf
Description	HB0080P4248
Document 2 ID	file://W:\Robert Masterson\HB80_Challenge\Bill_Versions\HB0080P4318.rtf
Description	HB0080P4318
Rendering set	standard

Legend:	
<a href="#">Insertion</a>	
<del>Deletion</del>	
<del>Moved from</del>	
<a href="#">Moved to</a>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	33
Deletions	4
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	37

# **EXHIBIT K**



**SAMUEL H. SMITH  
THE SPEAKER**

**House of Representatives**  
Commonwealth of Pennsylvania  
Harrisburg

November 5, 2014

Honorable Tom Corbett  
225 Capitol Building  
Harrisburg, PA 17120

Dear Governor Corbett:

We recently discovered an error which occurred regarding the signing of HB 80.

On October 15, 2014, the Senate amended House Bill 80, and passed House Bill 80, P.N. 4318 finally on October 16, 2014. The House referred HB 80, P.N. 4318 to the Rules Committee on October 20, 2014, and concurred in the Senate amendments to that bill on the same date.

However, a House clerk mistakenly inserted the wrong printer's number, P.N. 4248, when the bill was presented to me for my signature. This error continued when both the President of the Senate and you also mistakenly signed the incorrect printer's number of the bill. The latter two errors were also the result of the initial error by the House clerk.

The error was discovered by House personnel on October 30, 2014, and we will now proceed to have the correct printer's number of HB 80 signed by both presiding officers and by you. We believe that since the actual HB 80, P.N. 4318 was never presented to you for signature, the ten day period for you to sign the bill will only begin at the time the House delivers HB 80, P.N. 4318 to you after having been signed by the presiding officers of both Houses.

I want to reiterate, that the correct printer's number was passed by both Houses, and the only error that occurred was in the signing of the bill, and this error is now being corrected by having all required officials sign the correct printer's number of HB 80. No constitutional requirements will be violated, and no rules of either House will be broken as a result of this second signing.

If you have any questions, please contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel H. Smith".

Samuel H. Smith  
The Speaker

cc: Honorable Carol Aichele

# **EXHIBIT L**

RECEIVED

2014 OCT 23 AM 11:00

Department of State  
Bureau of C.E.L.

**ACT NO.**

192

RECEIVED

2014 OCT 29 AM 10:16

Department of State  
Bureau of C.E.L.

**HOUSE BILL No.** 80

**SESSION OF 20** 14



RECEIVED

BY \_\_\_\_\_

OCT 23 2014

OFFICE OF GENERAL COUNSEL

REFERRED \_\_\_\_\_



THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 80 Session of 2013

INTRODUCED BY METCALFE, CLYMER, D. COSTA, COX, GILLEN, GROVE, C. HARRIS, HESS, KAUFFMAN, KORTZ, LONGIETTI, MILLARD, O'NEILL, PASHINSKI, PETRI, READSHAW, ROCK, SAYLOR, SWANGER, TOEPEL, WATSON, FREEMAN, R. MILLER, MULLERY, GABLER, FARRY, EVANKOVICH, TOOHIL, MARSHALL AND CALTAGIRONE, JANUARY 10, 2013

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 6, 2014

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, FURTHER PROVIDING FOR THE OFFENSE OF <--
3 CRIMINAL TRESPASS; defining the offense of theft of secondary
4 metal; and prescribing penalties.

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

7 ~~Section 1. Title 18 of the Pennsylvania Consolidated~~ <--
8 ~~Statutes is amended by adding a section to read:~~

9 ~~SECTION 1. SECTION 3503(B.1) OF TITLE 18 OF THE PENNSYLVANIA~~ <--
10 ~~CONSOLIDATED STATUTES IS AMENDED TO READ:~~

11 SECTION 1. SECTION 3503(B.1) AND (D) OF TITLE 18 OF THE <--
12 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

13 § 3503. CRIMINAL TRESPASS.

14 \* \* \*

15 (B.1) SIMPLE TRESPASSER.--

16 (1) A PERSON COMMITS AN OFFENSE IF, KNOWING THAT HE IS

1 NOT LICENSED OR PRIVILEGED TO DO SO, HE ENTERS OR REMAINS IN  
2 ANY PLACE FOR THE PURPOSE OF:

3 (I) THREATENING OR TERRORIZING THE OWNER OR OCCUPANT  
4 OF THE PREMISES;

5 (II) STARTING OR CAUSING TO BE STARTED ANY FIRE UPON  
6 THE PREMISES; [OR]

7 (III) DEFACING OR DAMAGING THE PREMISES[.]; OR

8 (IV) UNLAWFULLY TAKING SECONDARY METAL FROM THE  
9 PREMISES.

10 (2) AN OFFENSE UNDER [THIS SUBSECTION] PARAGRAPH (1)(IV)  
11 CONSTITUTES A FIRST DEGREE MISDEMEANOR. AN OFFENSE UNDER  
12 PARAGRAPH (1)(I), (II) OR (III) CONSTITUTES A SUMMARY  
13 OFFENSE.

14 \* \* \*

15 (D) [DEFINITION.--AS USED IN THIS SECTION, THE TERM "SCHOOL <--  
16 GROUNDS" MEANS ANY] DEFINITIONS.--AS USED IN THIS SECTION, THE  
17 FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO  
18 THEM IN THIS SUBSECTION:

19 "SCHOOL GROUNDS." ANY BUILDING OF OR GROUNDS OF ANY  
20 ELEMENTARY OR SECONDARY PUBLICLY FUNDED EDUCATIONAL INSTITUTION,  
21 ANY ELEMENTARY OR SECONDARY PRIVATE SCHOOL LICENSED BY THE  
22 DEPARTMENT OF EDUCATION, ANY ELEMENTARY OR SECONDARY PAROCHIAL  
23 SCHOOL, ANY CERTIFIED DAY-CARE CENTER OR ANY LICENSED PRESCHOOL  
24 PROGRAM.

25 "SECONDARY METAL." AS DEFINED IN SECTION 3935 (RELATING TO  
26 THEFT OF SECONDARY METAL).

27 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:  
28 § 3935. Theft of secondary metal.

29 (a) Offense defined.--A person commits the offense of theft  
30 of secondary metal if the person unlawfully takes or attempts to

1 take possession of, carries away or exercises unlawful control  
2 over any secondary metal with intent to deprive the rightful  
3 owner thereof.

4 (b) Grading.--Except as set forth in subsection (c):

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

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

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

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

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

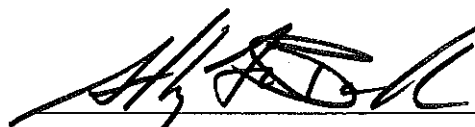
27 (d) Definition.--As used in this section, the term  
28 "secondary metal" means wire, pipe or cable commonly used by  
29 communications, gas and electrical utilities and railroads and  
30 mass transit or commuter rail agencies, copper, aluminum or

1 other metal, or a combination of metals, that is valuable for  
2 recycling or reuse as raw material. ,

3 Section 2 3. This act shall take effect in 60 days.

<--

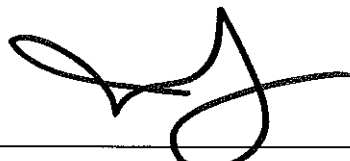
We certify that this bill, House Bill No. 80, Printer's No. 4248,  
has passed the House of Representatives and the Senate.



Chief Clerk, House of Representatives



Speaker, House of Representatives



President Pro Tempore, Senate

Approved the 28th day of October A.D. 2014



Governor

# **EXHIBIT M**

RECEIVED

2014 NOV -6 PM 3:37

RECEIVED

2014 NOV -6 PM 12:33

Deputy  
Bureau of

ACT NO.

198

Bureau of  
Office of

HOUSE BILL No. 80

SESSION OF 2014



THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 80

Session of  
2013

INTRODUCED BY METCALFE, CLYMER, D. COSTA, COX, GILLEN, GROVE,  
C. HARRIS, HESS, KAUFFMAN, KORTZ, LONGIETTI, MILLARD,  
O'NEILL, PASHINSKI, PETRI, READSHAW, ROCK, SAYLOR, SWANGER,  
TOEPEL, WATSON, FREEMAN, R. MILLER, MULLERY, GABLER, FARRY,  
EVANKOVICH, TOOHIL, MARSHALL AND CALTAGIRONE,  
JANUARY 10, 2013

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 15, 2014

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, IN BURGLARY AND OTHER CRIMINAL <--  
3 INTRUSION, FURTHER PROVIDING FOR THE OFFENSE OF CRIMINAL <--  
4 TRESPASS; defining the offense of theft of secondary metal;  
5 and prescribing penalties; AND, IN FIREARMS AND OTHER <--  
6 DANGEROUS ARTICLES, FURTHER PROVIDING FOR PENNSYLVANIA STATE  
7 POLICE AND FOR LIMITATION ON THE REGULATION OF FIREARMS AND  
8 AMMUNITION.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 ~~Section 1. Title 18 of the Pennsylvania Consolidated~~ <--  
12 ~~Statutes is amended by adding a section to read:~~

13 ~~SECTION 1. SECTION 3503(B.1) OF TITLE 18 OF THE PENNSYLVANIA~~ <--  
14 ~~CONSOLIDATED STATUTES IS AMENDED TO READ:~~

15 SECTION 1. SECTION 3503(B.1) AND (D) OF TITLE 18 OF THE <--  
16 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

17 § 3503. CRIMINAL TRESPASS.

18 \* \* \*



1 (B.1) SIMPLE TRESPASSER.--

2 (1) A PERSON COMMITS AN OFFENSE IF, KNOWING THAT HE IS  
3 NOT LICENSED OR PRIVILEGED TO DO SO, HE ENTERS OR REMAINS IN  
4 ANY PLACE FOR THE PURPOSE OF:

5 (I) THREATENING OR TERRORIZING THE OWNER OR OCCUPANT  
6 OF THE PREMISES;

7 (II) STARTING OR CAUSING TO BE STARTED ANY FIRE UPON  
8 THE PREMISES; [OR]

9 (III) DEFACING OR DAMAGING THE PREMISES[.]; OR

10 (IV) UNLAWFULLY TAKING SECONDARY METAL FROM THE  
11 PREMISES.

12 (2) AN OFFENSE UNDER [THIS SUBSECTION] PARAGRAPH (1) (IV)  
13 CONSTITUTES A FIRST DEGREE MISDEMEANOR. AN OFFENSE UNDER  
14 PARAGRAPH (1) (I), (II) OR (III) CONSTITUTES A SUMMARY  
15 OFFENSE.

16 \* \* \*

17 (D) [DEFINITION.--AS USED IN THIS SECTION, THE TERM "SCHOOL <--  
18 GROUNDS" MEANS ANY] DEFINITIONS.--AS USED IN THIS SECTION, THE  
19 FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO  
20 THEM IN THIS SUBSECTION:

21 "SCHOOL GROUNDS." ANY BUILDING OF OR GROUNDS OF ANY  
22 ELEMENTARY OR SECONDARY PUBLICLY FUNDED EDUCATIONAL INSTITUTION,  
23 ANY ELEMENTARY OR SECONDARY PRIVATE SCHOOL LICENSED BY THE  
24 DEPARTMENT OF EDUCATION, ANY ELEMENTARY OR SECONDARY PAROCHIAL  
25 SCHOOL, ANY CERTIFIED DAY-CARE CENTER OR ANY LICENSED PRESCHOOL  
26 PROGRAM.

27 "SECONDARY METAL." AS DEFINED IN SECTION 3935 (RELATING TO  
28 THEFT OF SECONDARY METAL).

29 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:  
30 § 3935. Theft of secondary metal.

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

6 (b) Grading.--Except as set forth in subsection (c):

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

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

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

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

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

29 (d) Definition.--As used in this section, the term  
30 "secondary metal" means wire, pipe or cable commonly used by

1 communications, gas and electrical utilities and railroads and  
2 mass transit or commuter rail agencies, copper, aluminum or  
3 other metal, or a combination of metals, that is valuable for  
4 recycling or reuse as raw material.

5 SECTION 3. SECTION 6111.1(F) (3) AND (G) (1) AND (3) OF TITLE <--  
6 18 ARE AMENDED TO READ:

7 § 6111.1. PENNSYLVANIA STATE POLICE.

8 \* \* \*

9 (F) NOTIFICATION OF MENTAL HEALTH ADJUDICATION, TREATMENT,  
10 COMMITMENT, DRUG USE OR ADDICTION.--

11 \* \* \*

12 (3) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE  
13 PENNSYLVANIA STATE POLICE [MAY] SHALL, WITHIN 72 HOURS OF  
14 RECEIPT, DISCLOSE, ELECTRONICALLY OR OTHERWISE, TO THE UNITED  
15 STATES ATTORNEY GENERAL OR A DESIGNEE, ANY RECORD RELEVANT TO  
16 A DETERMINATION OF WHETHER A PERSON IS DISQUALIFIED FROM  
17 POSSESSING OR RECEIVING A FIREARM UNDER 18 U.S.C. § 922 (G)  
18 (3) OR (4) OR AN APPLICABLE STATE STATUTE[.], AND ANY RECORD  
19 RELEVANT TO A DETERMINATION OF WHETHER A PERSON IS NOT  
20 DISQUALIFIED OR IS NO LONGER DISQUALIFIED FROM POSSESSING OR  
21 RECEIVING A FIREARM UNDER 18 U.S.C. § 922(G) (3) OR (4) OR AN  
22 APPLICABLE STATE STATUTE.

23 (G) REVIEW BY COURT.--

24 (1) UPON RECEIPT OF A COPY OF THE ORDER OF A COURT OF  
25 COMPETENT JURISDICTION WHICH VACATES A FINAL ORDER OR AN  
26 INVOLUNTARY CERTIFICATION ISSUED BY A MENTAL HEALTH REVIEW  
27 OFFICER, THE PENNSYLVANIA STATE POLICE SHALL, AFTER  
28 DISCLOSING RELEVANT RECORDS UNDER SUBSECTION (F) (3), EXPUNGE  
29 ALL RECORDS OF THE INVOLUNTARY TREATMENT RECEIVED UNDER  
30 SUBSECTION (F).

1 \* \* \*

2 (3) THE PENNSYLVANIA STATE POLICE, AFTER DISCLOSING  
3 RELEVANT RECORDS UNDER SUBSECTION (F)(3), SHALL EXPUNGE ALL  
4 RECORDS OF AN INVOLUNTARY COMMITMENT OF AN INDIVIDUAL WHO IS  
5 DISCHARGED FROM A MENTAL HEALTH FACILITY BASED UPON THE  
6 INITIAL REVIEW BY THE PHYSICIAN OCCURRING WITHIN TWO HOURS OF  
7 ARRIVAL UNDER SECTION 302(B) OF THE MENTAL HEALTH PROCEDURES  
8 ACT AND THE PHYSICIAN'S DETERMINATION THAT NO SEVERE MENTAL  
9 DISABILITY EXISTED PURSUANT TO SECTION 302(B) OF THE MENTAL  
10 HEALTH PROCEDURES ACT. THE PHYSICIAN SHALL PROVIDE SIGNED  
11 CONFIRMATION OF THE DETERMINATION OF THE LACK OF SEVERE  
12 MENTAL DISABILITY FOLLOWING THE INITIAL EXAMINATION UNDER  
13 SECTION 302(B) OF THE MENTAL HEALTH PROCEDURES ACT TO THE  
14 PENNSYLVANIA STATE POLICE.

15 \* \* \*

16 SECTION 4. SECTION 6120(B) OF TITLE 18 IS AMENDED AND THE  
17 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

18 § 6120. LIMITATION ON THE REGULATION OF FIREARMS AND  
19 AMMUNITION.

20 \* \* \*

21 (A.2) RELIEF.--A PERSON ADVERSELY AFFECTED BY AN ORDINANCE,  
22 A RESOLUTION, REGULATION, RULE, PRACTICE OR ANY OTHER ACTION  
23 PROMULGATED OR ENFORCED BY A COUNTY, MUNICIPALITY OR TOWNSHIP  
24 PROHIBITED UNDER SUBSECTION (A) OR 53 PA.C.S. § 2962(G)  
25 (RELATING TO LIMITATION ON MUNICIPAL POWERS) MAY SEEK  
26 DECLARATORY OR INJUNCTIVE RELIEF AND ACTUAL DAMAGES IN AN  
27 APPROPRIATE COURT.

28 (A.3) REASONABLE EXPENSES.--A COURT SHALL AWARD REASONABLE  
29 EXPENSES TO A PERSON ADVERSELY AFFECTED IN AN ACTION UNDER  
30 SUBSECTION (A.2) FOR ANY OF THE FOLLOWING:

1           (1) A FINAL DETERMINATION BY THE COURT IS GRANTED IN  
2           FAVOR OF THE PERSON ADVERSELY AFFECTED.

3           (2) THE REGULATION IN QUESTION IS RESCINDED, REPEALED OR  
4           OTHERWISE ABROGATED AFTER SUIT HAS BEEN FILED UNDER  
5           SUBSECTION (A.2) BUT BEFORE THE FINAL DETERMINATION BY THE  
6           COURT.

7           (B) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
8           WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
9           SUBSECTION:

10          "DEALER." THE TERM SHALL INCLUDE ANY PERSON ENGAGED IN THE  
11          BUSINESS OF SELLING AT WHOLESALE OR RETAIL A FIREARM OR  
12          AMMUNITION.

13          "FIREARMS." THIS TERM SHALL HAVE THE MEANING GIVEN TO IT IN  
14          SECTION 5515 (RELATING TO PROHIBITING OF PARAMILITARY TRAINING)  
15          BUT SHALL NOT INCLUDE AIR RIFLES AS THAT TERM IS DEFINED IN  
16          SECTION 6304 (RELATING TO SALE AND USE OF AIR RIFLES).

17          "PERSON ADVERSELY AFFECTED." ANY OF THE FOLLOWING:

18               (1) A RESIDENT OF THIS COMMONWEALTH WHO MAY LEGALLY  
19               POSSESS A FIREARM UNDER FEDERAL AND STATE LAW.

20               (2) A PERSON WHO OTHERWISE HAS STANDING UNDER THE LAWS  
21               OF THIS COMMONWEALTH TO BRING AN ACTION UNDER SUBSECTION  
22               (A.2).

23               (3) A MEMBERSHIP ORGANIZATION, IN WHICH A MEMBER IS A  
24               PERSON DESCRIBED UNDER PARAGRAPH (1) OR (2).

25          "POLITICAL SUBDIVISION." THE TERM SHALL INCLUDE ANY HOME  
26          RULE CHARTER MUNICIPALITY, COUNTY, CITY, BOROUGH, INCORPORATED  
27          TOWN, TOWNSHIP OR SCHOOL DISTRICT.

28          "REASONABLE EXPENSES." THE TERM INCLUDES, BUT IS NOT LIMITED  
29          TO, ATTORNEY FEES, EXPERT WITNESS FEES, COURT COSTS AND  
30          COMPENSATION FOR LOSS OF INCOME.

1 Section 2 3 5. This act shall take effect in 60 days.

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We certify that this bill, House Bill No. 80, Printer's No. 4318,  
has passed the House of Representatives and the Senate.

  
\_\_\_\_\_  
Chief Clerk, House of Representatives

  
\_\_\_\_\_  
Speaker, House of Representatives

  
\_\_\_\_\_  
President, Senate

Approved the 6<sup>th</sup> day of November A.D. 2014

  
\_\_\_\_\_  
Governor