

# **SB 754: Yet Another Well-intentioned Law**

## **That Should NOT Be Enacted**

**By Roy Minet** (Rev. 08/24/17)

We have too many laws. I fantasize that alternate sessions of the Pennsylvania General Assembly (and the U.S. Congress) might someday be restricted to repealing bad or unnecessary laws; no new laws would be allowed!

The last thing we need is yet another well-intentioned, but bad law. Pennsylvania SB 754, as proposed by Senator Scott Martin, et al., fits that description and should not be enacted.

The sole purpose of government is to secure our individual rights to life, liberty and property. Laws must be aimed only at prohibiting and punishing acts by any individual who initiates the use of force against another (murder, assault, kidnapping, etc.) or who materially infringes upon the equal rights of others (fraud, theft, contract violation, etc.).

Laws authorize the use of force by a government to achieve two goals: first, to remove really bad actors from society; and second, to deter bad behaviors. (Note that punishing somebody is the means, but is not a goal.) A fair law clearly defines an offense and prescribes a definite, understandable, predictable penalty. In order to act as an effective deterrent, a large percentage of citizens have to know the law exists and have at least a reasonable grasp of its provisions.

Over the years, a complex thicket of laws has grown up like a tangled briar patch. Substantially no one is aware of even half of existing laws; trained lawyers frequently struggle to reconcile overlaps, conflicts and ambiguities. Thus, most laws do not achieve the important goal of deterrence and instead function mainly as “gotchas.” This is not fair or good for anyone (except perhaps lawyers), and it adds a lot of overhead costs to society.

Most of us heartily concur with Martin that the sometimes astronomical public safety and law enforcement costs incurred for “demonstrations” are a regrettable burden on taxpayers. However, as the bill correctly points out at its beginning, such demonstrations are, and certainly should be, protected rights under our U.S. Constitution. Just as clearly, such law enforcement functions as may be necessary to protect citizens’ rights are squarely the responsibility of government and therefore taxpayers.

SB 754 makes a lame and nebulous attempt at offloading some of these costs onto what might be termed “targets of opportunity” (anyone who “in connection with the demonstration . . . is convicted of a felony or misdemeanor offense.”). The problem is that there may be no logical and defensible way to couple the costs to various serious and/or not-so-serious offenses. The bill doesn’t even try. It punts. “All costs owed may be determined by a court of competent jurisdiction.”

NEWSFLASH: It is the job of legislators to write the laws, not the courts or bureaucrats.

It does not appear that SB 754 could possibly meet the criteria for a fair law as defined above. Publicity generated by unpredictable lightning bolts striking assorted perpetrators might be enough to maintain some public awareness of the law, but more likely, it would fade into the briar patch and therefore not serve as much of a deterrent either.

This bill is not half baked, the oven wasn't even turned on. Citizens should expect and must demand better work with deeper and more rational thinking from their elected representatives. Yes, that takes a lot more time and effort. Careful thinking, research and adherence to important basic principles are all hard, but necessary.

Of course, these comments do not apply solely to Senator Martin. At least six co-sponsors have signed onto SB 754. Furthermore and unfortunately, this bill is far from the only example of bad or unnecessary legislation.

SB 754 expresses concern for the financial burdens on taxpayers. That surely is an increasingly serious problem. It should be noted that the bill would not likely reduce the total burden, just shift who is paying part of it. If our representatives are sincerely concerned about the burden of taxes upon taxpayers, they need to reduce total spending. (Even if they are not concerned at all, they still need to reduce total spending.) Taxpayers don't benefit from the game of shifting the burden around, or the game of finding more ways to hide obscure taxes that politicians think we won't notice paying – that's called death by a thousand cuts.

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