

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 624

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LIBLA.

Pre-filed December 1, 2015, and ordered printed.

Read 2nd time January 7, 2016, and referred to the Committee on Financial and Governmental Organizations and Elections.

Reported from the Committee February 25, 2016, with recommendation that the bill do pass.

Taken up for Perfection March 30, 2016. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

4888S.02P

AN ACT

To repeal section 570.010 as enacted by house bill no. 1888, ninety-first general assembly, second regular session, section 570.030 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 570.030 as enacted by senate bill no. 9, ninety-seventh general assembly, first regular session, and section 570.135 as enacted by senate bill no. 491, ninety-seventh general assembly, and to enact in lieu thereof three new sections relating to stealing, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 570.010 as enacted by house bill no. 1888, ninety-first
2 general assembly, second regular session, section 570.030 as enacted by senate
3 bill no. 491, ninety-seventh general assembly, second regular session, section
4 570.030 as enacted by senate bill no. 9, ninety-seventh general assembly, first
5 regular session, and section 570.135 as enacted by senate bill no. 491, ninety-
6 seventh general assembly, are repealed and three new sections enacted in lieu
7 thereof, to be known as sections 570.010, 570.030, and 570.135, to read as follows:

570.010. As used in this chapter:

2 (1) "Adulterated" means varying from the standard of composition or
3 quality prescribed by statute or lawfully promulgated administrative regulations
4 of this state lawfully filed, or if none, as set by commercial usage;

5 (2) "Appropriate" means to take, obtain, use, transfer, conceal or retain
6 possession of;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

- 7 (3) "Coercion" means a threat, however communicated:
8 (a) To commit any crime; or
9 (b) To inflict physical injury in the future on the person threatened or
10 another; or
11 (c) To accuse any person of any crime; or
12 (d) To expose any person to hatred, contempt or ridicule; or
13 (e) To harm the credit or business repute of any person; or
14 (f) To take or withhold action as a public servant, or to cause a public
15 servant to take or withhold action; or
16 (g) To inflict any other harm which would not benefit the actor. A threat
17 of accusation, lawsuit or other invocation of official action is not coercion if the
18 property sought to be obtained by virtue of such threat was honestly claimed as
19 restitution or indemnification for harm done in the circumstances to which the
20 accusation, exposure, lawsuit or other official action relates, or as compensation
21 for property or lawful service. The defendant shall have the burden of injecting
22 the issue of justification as to any threat;
- 23 (4) "Credit device" means a writing, number or other device purporting to
24 evidence an undertaking to pay for property or services delivered or rendered to
25 or upon the order of a designated person or bearer;
- 26 (5) "Dealer" means a person in the business of buying and selling goods;
- 27 (6) "Debit device" means a card, code, number or other device, other than
28 a check, draft or similar paper instrument, by the use of which a person may
29 initiate an electronic fund transfer, including but not limited to devices that
30 enable electronic transfers of benefits to public assistance recipients;
- 31 (7) "Deceit" means purposely making a representation which is false and
32 which the actor does not believe to be true and upon which the victim relies, as
33 to a matter of fact, law, value, intention or other state of mind. The term "deceit"
34 does not, however, include falsity as to matters having no pecuniary significance,
35 or puffing by statements unlikely to deceive ordinary persons in the group
36 addressed. Deception as to the actor's intention to perform a promise shall not
37 be inferred from the fact alone that he did not subsequently perform the promise;
- 38 (8) "Deprive" means:
39 (a) To withhold property from the owner permanently; or
40 (b) To restore property only upon payment of reward or other
41 compensation; or

42 (c) To use or dispose of property in a manner that makes recovery of the
43 property by the owner unlikely;

44 (9) **"Financial institution" means a bank, trust company, savings**
45 **and loan association, or credit union;**

46 (10) "Misabeled" means varying from the standard of truth or disclosure
47 in labeling prescribed by statute or lawfully promulgated administrative
48 regulations of this state lawfully filed, or if none, as set by commercial usage; or
49 represented as being another person's product, though otherwise accurately
50 labeled as to quality and quantity;

51 [(10)] (11) "New and unused property" means tangible personal property
52 that has never been used since its production or manufacture and is in its
53 original unopened package or container if such property was packaged;

54 [(11)] (12) "Of another" property or services is that "of another" if any
55 natural person, corporation, partnership, association, governmental subdivision
56 or instrumentality, other than the actor, has a possessory or proprietary interest
57 therein, except that property shall not be deemed property of another who has
58 only a security interest therein, even if legal title is in the creditor pursuant to
59 a conditional sales contract or other security arrangement;

60 [(12)] (13) "Property" means anything of value, whether real or personal,
61 tangible or intangible, in possession or in action, and shall include but not be
62 limited to the evidence of a debt actually executed but not delivered or issued as
63 a valid instrument;

64 [(13)] (14) "Receiving" means acquiring possession, control or title or
65 lending on the security of the property;

66 [(14)] (15) "Services" includes transportation, telephone, electricity, gas,
67 water, or other public service, accommodation in hotels, restaurants or elsewhere,
68 admission to exhibitions and use of vehicles;

69 [(15)] (16) "Writing" includes printing, any other method of recording
70 information, money, coins, negotiable instruments, tokens, stamps, seals, credit
71 cards, badges, trademarks and any other symbols of value, right, privilege or
72 identification.

570.030. 1. A person commits the offense of stealing if he or she:

2 (1) Appropriates property or services of another with the purpose to
3 deprive him or her thereof, either without his or her consent or by means of deceit
4 or coercion;

5 (2) Attempts to appropriate anhydrous ammonia or liquid nitrogen of
6 another with the purpose to deprive him or her thereof, either without his or her
7 consent or by means of deceit or coercion; or

8 (3) For the purpose of depriving the owner of a lawful interest therein,
9 receives, retains or disposes of property of another knowing that it has been
10 stolen, or believing that it has been stolen.

11 2. The offense of stealing is a class A felony if the property appropriated
12 consists of any of the following containing any amount of anhydrous ammonia:
13 a tank truck, tank trailer, rail tank car, bulk storage tank, field nurse, field tank
14 or field applicator.

15 3. The offense of stealing is a class B felony if:

16 (1) The property appropriated or attempted to be appropriated consists of
17 any amount of anhydrous ammonia or liquid nitrogen;

18 (2) The property consists of any animal considered livestock as the term
19 livestock is defined in section 144.010, or any captive wildlife held under permit
20 issued by the conservation commission, and the value of the animal or animals
21 appropriated exceeds three thousand dollars and that person has previously been
22 found guilty of appropriating any animal considered livestock or captive wildlife
23 held under permit issued by the conservation commission. Notwithstanding any
24 provision of law to the contrary, such person shall serve a minimum prison term
25 of not less than eighty percent of his or her sentence before he or she is eligible
26 for probation, parole, conditional release, or other early release by the department
27 of corrections;

28 (3) A person appropriates property consisting of a motor vehicle,
29 watercraft, or aircraft, and that person has previously been found guilty of two
30 stealing-related offenses committed on two separate occasions where such offenses
31 occurred within ten years of the date of occurrence of the present offense; [or]

32 (4) The property appropriated or attempted to be appropriated consists of
33 any animal considered livestock as the term is defined in section 144.010 if the
34 value of the livestock exceeds ten thousand dollars; **or**

35 **(5) The property appropriated or attempted to be appropriated**
36 **is owned by or in the custody of a financial institution and the property**
37 **is taken or attempted to be taken physically from an individual person**
38 **to deprive the owner or custodian of the property.**

39 4. The offense of stealing is a class C felony if the value of the property
40 or services appropriated is twenty-five thousand dollars or more.

41 5. The offense of stealing is a class D felony if:

42 (1) The value of the property or services appropriated is seven hundred
43 fifty dollars or more;

44 (2) The offender physically takes the property appropriated from the
45 person of the victim; or

46 (3) The property appropriated consists of:

47 (a) Any motor vehicle, watercraft or aircraft;

48 (b) Any will or unrecorded deed affecting real property;

49 (c) Any credit device, debit device or letter of credit;

50 (d) Any firearms;

51 (e) Any explosive weapon as defined in section 571.010;

52 (f) Any United States national flag designed, intended and used for
53 display on buildings or stationary flagstaffs in the open;

54 (g) Any original copy of an act, bill or resolution, introduced or acted upon
55 by the legislature of the state of Missouri;

56 (h) Any pleading, notice, judgment or any other record or entry of any
57 court of this state, any other state or of the United States;

58 (i) Any book of registration or list of voters required by chapter 115;

59 (j) Any animal considered livestock as that term is defined in section
60 144.010;

61 (k) Any live fish raised for commercial sale with a value of seventy-five
62 dollars or more;

63 (l) Any captive wildlife held under permit issued by the conservation
64 commission;

65 (m) Any controlled substance as defined by section 195.010;

66 (n) Ammonium nitrate;

67 (o) Any wire, electrical transformer, or metallic wire associated with
68 transmitting telecommunications, video, internet, or voice over internet protocol
69 service, or any other device or pipe that is associated with conducting electricity
70 or transporting natural gas or other combustible fuels; or

71 (p) Any material appropriated with the intent to use such material to
72 manufacture, compound, produce, prepare, test or analyze amphetamine or
73 methamphetamine or any of their analogues.

74 6. The offense of stealing is a class E felony if:

75 (1) The property appropriated is an animal; or

76 (2) A person has previously been found guilty of three stealing-related
77 offenses committed on three separate occasions where such offenses occurred
78 within ten years of the date of occurrence of the present offense.

79 7. The offense of stealing is a class D misdemeanor if the property is not
80 of a type listed in subsection 2, 3, 5, or 6 of this section, the property
81 appropriated has a value of less than one hundred fifty dollars, and the person
82 has no previous findings of guilt for a stealing-related offense.

83 8. The offense of stealing is a class A misdemeanor if no other penalty is
84 specified in this section.

85 9. If a violation of this section is subject to enhanced punishment based
86 on prior findings of guilt, such findings of guilt shall be pleaded and proven in the
87 same manner as required by section 558.021.

88 10. The appropriation of any property or services of a type listed in
89 subsection 2, 3, 5, or 6 of this section or of a value of seven hundred fifty dollars
90 or more may be considered a separate felony and may be charged in separate
91 counts.

92 11. The value of property or services appropriated pursuant to one scheme
93 or course of conduct, whether from the same or several owners and whether at the
94 same or different times, constitutes a single criminal episode and may be
95 aggregated in determining the grade of the offense, except as set forth in
96 subsection 10 of this section.

570.030. 1. A person commits the crime of stealing if he or she
2 appropriates property or services of another with the purpose to deprive him or
3 her thereof, either without his or her consent or by means of deceit or coercion.

4 2. Evidence of the following is admissible in any criminal prosecution
5 pursuant to this section on the issue of the requisite knowledge or belief of the
6 alleged stealer:

7 (1) That he or she failed or refused to pay for property or services of a
8 hotel, restaurant, inn or boardinghouse;

9 (2) That he or she gave in payment for property or services of a hotel,
10 restaurant, inn or boardinghouse a check or negotiable paper on which payment
11 was refused;

12 (3) That he or she left the hotel, restaurant, inn or boardinghouse with
13 the intent to not pay for property or services;

14 (4) That he or she surreptitiously removed or attempted to remove his or
15 her baggage from a hotel, inn or boardinghouse;

16 (5) That he or she, with intent to cheat or defraud a retailer, possesses,
17 uses, utters, transfers, makes, alters, counterfeits, or reproduces a retail sales
18 receipt, price tag, or universal price code label, or possesses with intent to cheat
19 or defraud, the device that manufactures fraudulent receipts or universal price
20 code labels.

21 3. Notwithstanding any other provision of law, any offense in which the
22 value of property or services is an element is a class C felony if:

23 (1) The value of the property or services appropriated is five hundred
24 dollars or more but less than twenty-five thousand dollars; or

25 (2) The actor physically takes the property appropriated from the person
26 of the victim; or

27 (3) The property appropriated consists of:

28 (a) Any motor vehicle, watercraft or aircraft; or

29 (b) Any will or unrecorded deed affecting real property; or

30 (c) Any credit card or letter of credit; or

31 (d) Any firearms; or

32 (e) Any explosive weapon as defined in section 571.010; or

33 (f) A United States national flag designed, intended and used for display
34 on buildings or stationary flagstaffs in the open; or

35 (g) Any original copy of an act, bill or resolution, introduced or acted upon
36 by the legislature of the state of Missouri; or

37 (h) Any pleading, notice, judgment or any other record or entry of any
38 court of this state, any other state or of the United States; or

39 (i) Any book of registration or list of voters required by chapter 115; or

40 (j) Any animal considered livestock as that term is defined in section
41 144.010; or

42 (k) Live fish raised for commercial sale with a value of seventy-five
43 dollars; or

44 (l) Captive wildlife held under permit issued by the conservation
45 commission; or

46 (m) Any controlled substance as defined by section 195.010; or

47 (n) Anhydrous ammonia;

48 (o) Ammonium nitrate; or

49 (p) Any document of historical significance which has fair market value
50 of five hundred dollars or more.

51 4. Notwithstanding any other provision of law, stealing of any animal
52 considered livestock, as that term is defined in section 144.010, is a class B felony
53 if the value of the livestock exceeds ten thousand dollars.

54 5. If an actor appropriates any material with a value less than five
55 hundred dollars in violation of this section with the intent to use such material
56 to manufacture, compound, produce, prepare, test or analyze amphetamine or
57 methamphetamine or any of their analogues, then such violation is a class C
58 felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any
59 attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class
60 B felony. The theft of any amount of anhydrous ammonia by appropriation of a
61 tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or
62 field applicator is a class A felony.

63 **6. If the actor appropriates or attempts to appropriate property**
64 **that is owned by or in the custody of a financial institution and the**
65 **property is taken or attempted to be taken physically from an**
66 **individual person to deprive the owner or custodian of the property,**
67 **the theft is a class B felony.**

68 7. The theft of any item of property or services pursuant to subsection 3
69 of this section which exceeds five hundred dollars may be considered a separate
70 felony and may be charged in separate counts.

71 [7.] 8. Any person with a prior conviction of paragraph (j) or (l) of
72 subdivision (3) of subsection 3 of this section and who violates the provisions of
73 paragraph (j) or (l) of subdivision (3) of subsection 3 of this section when the
74 value of the animal or animals stolen exceeds three thousand dollars is guilty of
75 a class B felony. Notwithstanding any provision of law to the contrary, such
76 person shall serve a minimum prison term of not less than eighty percent of his
77 or her sentence before he or she is eligible for probation, parole, conditional
78 release, or other early release by the department of corrections.

79 [8.] 9. Any offense in which the value of property or services is an
80 element is a class B felony if the value of the property or services equals or
81 exceeds twenty-five thousand dollars.

82 [9.] 10. Any violation of this section for which no other penalty is
83 specified in this section is a class A misdemeanor.

570.135. 1. A person commits the offense of fraudulent procurement of
2 a credit or debit device if he or she:

3 (1) Knowingly makes or causes to be made, directly or indirectly, a false
4 statement regarding another person for the purpose of fraudulently procuring the
5 issuance of a credit or debit device; [or]

6 (2) Knowingly obtains a means of identification of another person without
7 the authorization of that person and uses that means of identification
8 fraudulently to obtain, or attempt to obtain, credit, goods or services in the name
9 of the other person without the consent of that person; **or**

10 **(3) Knowingly possesses a fraudulently obtained credit or debit**
11 **device.**

12 2. The offense of fraudulent procurement of a credit or debit device is a
13 class A misdemeanor.

14 3. Notwithstanding any other provision of this section, no corporation,
15 proprietorship, partnership, limited liability company, limited liability
16 partnership or other business entity shall be **criminally** liable under this section
17 for accepting applications for credit or debit devices or for the use of a credit or
18 debit device in any transaction, absent clear and convincing evidence that such
19 business entity conspired with or was a part of the fraudulent procuring of the
20 issuance of a credit or debit device.

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