

# HOUSE BILL 1137

E1, E2

4lr2713

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By: **Delegate Dumais**

Introduced and read first time: February 7, 2014

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2014

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crimes – Robbery, ~~Burglary~~, or Theft of Property – Controlled Dangerous**  
3 **Substances**

4 FOR the purpose of clarifying that the crime of robbery includes robbing or attempting  
5 to rob another of certain controlled dangerous substances; ~~establishing the~~  
6 ~~offense of breaking and entering the storhouse of another with the intent to~~  
7 ~~steal, take, or carry away certain controlled dangerous substances; providing~~  
8 ~~that a certain penalty applies to a certain offense;~~ clarifying that the crime of  
9 theft includes the theft of certain controlled dangerous substances; defining  
10 certain terms; and generally relating to controlled dangerous substances.

11 BY repealing and reenacting, without amendments,  
12 Article – Criminal Law  
13 Section 3–401(a), (d)(1), and (e), 3–402, ~~6–201(a)~~ 6–203(a), 7–101(a) and (i)(1),  
14 and 7–104(a) through (g)  
15 Annotated Code of Maryland  
16 (2012 Replacement Volume and 2013 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Criminal Law  
19 Section 3–401(d)(2)(xiii) and (xiv), ~~6–201(d) through (h)~~, ~~6–203~~, and  
20 7–101(i)(2)(xiii) and (xiv)  
21 Annotated Code of Maryland  
22 (2012 Replacement Volume and 2013 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to  
 2 Article – Criminal Law  
 3 Section 3–401(d)(2)(xv), ~~6–201(d)~~, and 7–101(i)(2)(xv)  
 4 Annotated Code of Maryland  
 5 (2012 Replacement Volume and 2013 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Criminal Law**

9 3–401.

10 (a) In this subtitle the following words have the meanings indicated.

11 (d) (1) “Property” means anything of value.

12 (2) “Property” includes:

13 (xiii) a financial instrument; [and]

14 (xiv) information, electronically produced data, and a computer  
 15 software or program in a form readable by machine or individual; AND

16 **(XV) A DRUG, A SUBSTANCE, OR AN IMMEDIATE PRECURSOR**  
 17 **LISTED AS A CONTROLLED DANGEROUS SUBSTANCE IN SCHEDULE II THROUGH**  
 18 **SCHEDULE V OF TITLE 5, SUBTITLE 4 OF THIS ARTICLE.**

19 (e) “Robbery” retains its judicially determined meaning except that:

20 (1) robbery includes obtaining the service of another by force or threat  
 21 of force; and

22 (2) robbery requires proof of intent to withhold property of another:

23 (i) permanently;

24 (ii) for a period that results in the appropriation of a part of the  
 25 property’s value;

26 (iii) with the purpose to restore it only on payment of a reward or  
 27 other compensation; or

28 (iv) to dispose of the property or use or deal with the property in  
 29 a manner that makes it unlikely that the owner will recover it.

30 3–402.

1 (a) A person may not commit or attempt to commit robbery.

2 (b) A person who violates this section is guilty of a felony and on conviction is  
3 subject to imprisonment not exceeding 15 years.

4 ~~6-201.~~

5 ~~(a) In this subtitle the following words have the meanings indicated.~~

6 ~~(d) "CONTROLLED DANGEROUS SUBSTANCE" IS A DRUG, A SUBSTANCE,~~  
7 ~~OR AN IMMEDIATE PRECURSOR LISTED AS A CONTROLLED DANGEROUS~~  
8 ~~SUBSTANCE IN SCHEDULE II THROUGH SCHEDULE V OF TITLE 5, SUBTITLE 4~~  
9 ~~OF THIS ARTICLE.~~

10 ~~[(d)] (E) "Crime of violence" has the meaning stated in § 14-101 of this~~  
11 ~~article.~~

12 ~~[(c)] (F) "Dwelling" retains its judicially determined meaning except to the~~  
13 ~~extent that its meaning is expressly or impliedly changed in this subtitle.~~

14 ~~[(f)] (G) "Enter" retains its judicially determined meaning except to the~~  
15 ~~extent that its meaning is expressly or impliedly changed in this subtitle.~~

16 ~~[(g)] (H) (1) "Firearm" includes:~~

17 ~~(i) a handgun, antique firearm, rifle, shotgun, short barreled~~  
18 ~~shotgun, and short barreled rifle, as those terms are defined in § 4-201 of this article;~~

19 ~~(ii) a machine gun, as defined in § 4-401 of this article; and~~

20 ~~(iii) a regulated firearm, as defined in § 5-101 of the Public~~  
21 ~~Safety Article.~~

22 ~~(2) "Firearm" does not include a firearm that has been modified to be~~  
23 ~~permanently inoperative.~~

24 ~~[(h)] (I) (1) "Storehouse" retains its judicially determined meaning.~~

25 ~~(2) "Storehouse" includes:~~

26 ~~(i) a building or other construction, or a watercraft;~~

27 ~~(ii) a barn, stable, pier, wharf, and any facility attached to a pier~~  
28 ~~or wharf;~~

1 ~~(iii) a storeroom or public building; and~~

2 ~~(iv) a trailer, aircraft, vessel, or railroad car.~~

3 6-203.

4 (a) A person may not break and enter the storehouse of another with the  
5 intent to commit theft, a crime of violence, or arson in the second degree.

6 ~~(b) A person may not break and enter the storehouse of another with the  
7 intent to steal, take, or carry away a firearm.~~

8 ~~(C) A PERSON MAY NOT BREAK AND ENTER THE STOREHOUSE OF  
9 ANOTHER WITH THE INTENT TO STEAL, TAKE, OR CARRY AWAY A CONTROLLED  
10 DANGEROUS SUBSTANCE.~~

11 ~~[(c)] (D) A person who violates this section is guilty of the felony of burglary  
12 in the second degree and on conviction is subject to:~~

13 ~~(1) for a violation of subsection (a) of this section, imprisonment not  
14 exceeding 15 years; and~~

15 ~~(2) for a violation of subsection (b) OR (C) of this section,  
16 imprisonment not exceeding 20 years or a fine not exceeding \$10,000 or both.~~

17 7-101.

18 (a) In this part the following words have the meanings indicated.

19 (i) (1) "Property" means anything of value.

20 (2) "Property" includes:

21 (xiii) a financial instrument; [and]

22 (xiv) information, electronically produced data, and a computer  
23 software or program in a form readable by machine or individual; AND

24 **(XV) A DRUG, A SUBSTANCE, OR AN IMMEDIATE PRECURSOR**  
25 **LISTED AS A CONTROLLED DANGEROUS SUBSTANCE IN SCHEDULE II THROUGH**  
26 **SCHEDULE V OF TITLE 5, SUBTITLE 4 OF THIS ARTICLE.**

27 7-104.

28 (a) A person may not willfully or knowingly obtain or exert unauthorized  
29 control over property, if the person:

1 (1) intends to deprive the owner of the property;

2 (2) willfully or knowingly uses, conceals, or abandons the property in a  
3 manner that deprives the owner of the property; or

4 (3) uses, conceals, or abandons the property knowing the use,  
5 concealment, or abandonment probably will deprive the owner of the property.

6 (b) A person may not obtain control over property by willfully or knowingly  
7 using deception, if the person:

8 (1) intends to deprive the owner of the property;

9 (2) willfully or knowingly uses, conceals, or abandons the property in a  
10 manner that deprives the owner of the property; or

11 (3) uses, conceals, or abandons the property knowing the use,  
12 concealment, or abandonment probably will deprive the owner of the property.

13 (c) (1) A person may not possess stolen personal property knowing that it  
14 has been stolen, or believing that it probably has been stolen, if the person:

15 (i) intends to deprive the owner of the property;

16 (ii) willfully or knowingly uses, conceals, or abandons the  
17 property in a manner that deprives the owner of the property; or

18 (iii) uses, conceals, or abandons the property knowing that the  
19 use, concealment, or abandonment probably will deprive the owner of the property.

20 (2) In the case of a person in the business of buying or selling goods,  
21 the knowledge required under this subsection may be inferred if:

22 (i) the person possesses or exerts control over property stolen  
23 from more than one person on separate occasions;

24 (ii) during the year preceding the criminal possession charged,  
25 the person has acquired stolen property in a separate transaction; or

26 (iii) being in the business of buying or selling property of the sort  
27 possessed, the person acquired it for a consideration that the person knew was far  
28 below a reasonable value.

29 (3) In a prosecution for theft by possession of stolen property under  
30 this subsection, it is not a defense that:

1 (i) the person who stole the property has not been convicted,  
2 apprehended, or identified;

3 (ii) the defendant stole or participated in the stealing of the  
4 property;

5 (iii) the property was provided by law enforcement as part of an  
6 investigation, if the property was described to the defendant as being obtained  
7 through the commission of theft; or

8 (iv) the stealing of the property did not occur in the State.

9 (4) Unless the person who criminally possesses stolen property  
10 participated in the stealing, the person who criminally possesses stolen property and a  
11 person who has stolen the property are not accomplices in theft for the purpose of any  
12 rule of evidence requiring corroboration of the testimony of an accomplice.

13 (d) A person may not obtain control over property knowing that the property  
14 was lost, mislaid, or was delivered under a mistake as to the identity of the recipient  
15 or nature or amount of the property, if the person:

16 (1) knows or learns the identity of the owner or knows, is aware of, or  
17 learns of a reasonable method of identifying the owner;

18 (2) fails to take reasonable measures to restore the property to the  
19 owner; and

20 (3) intends to deprive the owner permanently of the use or benefit of  
21 the property when the person obtains the property or at a later time.

22 (e) A person may not obtain the services of another that are available only  
23 for compensation:

24 (1) by deception; or

25 (2) with knowledge that the services are provided without the consent  
26 of the person providing them.

27 (f) Under this section, an offender's intention or knowledge that a promise  
28 would not be performed may not be established by or inferred solely from the fact that  
29 the promise was not performed.

30 (g) (1) A person convicted of theft of property or services with a value of:

31 (i) at least \$1,000 but less than \$10,000 is guilty of a felony  
32 and:

1                           1.     is subject to imprisonment not exceeding 10 years or a  
2 fine not exceeding \$10,000 or both; and

3                           2.     shall restore the property taken to the owner or pay  
4 the owner the value of the property or services;

5                           (ii)   at least \$10,000 but less than \$100,000 is guilty of a felony  
6 and:

7                           1.     is subject to imprisonment not exceeding 15 years or a  
8 fine not exceeding \$15,000 or both; and

9                           2.     shall restore the property taken to the owner or pay  
10 the owner the value of the property or services; or

11                          (iii)   \$100,000 or more is guilty of a felony and:

12                          1.     is subject to imprisonment not exceeding 25 years or a  
13 fine not exceeding \$25,000 or both; and

14                          2.     shall restore the property taken to the owner or pay  
15 the owner the value of the property or services.

16                          (2)   Except as provided in paragraphs (3) and (4) of this subsection, a  
17 person convicted of theft of property or services with a value of less than \$1,000, is  
18 guilty of a misdemeanor and:

19                          (i)   is subject to imprisonment not exceeding 18 months or a fine  
20 not exceeding \$500 or both; and

21                          (ii)   shall restore the property taken to the owner or pay the  
22 owner the value of the property or services.

23                          (3)   A person convicted of theft of property or services with a value of  
24 less than \$100 is guilty of a misdemeanor and:

25                          (i)   is subject to imprisonment not exceeding 90 days or a fine  
26 not exceeding \$500 or both; and

27                          (ii)   shall restore the property taken to the owner or pay the  
28 owner the value of the property or services.

29                          (4)   Subject to paragraph (5) of this subsection, a person who has two  
30 or more prior convictions under this subtitle and who is convicted of theft of property  
31 or services with a value of less than \$1,000 under paragraph (2) of this subsection is  
32 guilty of a misdemeanor and:

1 (i) is subject to imprisonment not exceeding 5 years or a fine  
2 not exceeding \$5,000 or both; and

3 (ii) shall restore the property taken to the owner or pay the  
4 owner the value of the property or services.

5 (5) The court may not impose the penalties under paragraph (4) of this  
6 subsection unless the State's Attorney serves notice on the defendant or the  
7 defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at  
8 least 15 days before trial that:

9 (i) the State will seek the penalties under paragraph (4) of this  
10 subsection; and

11 (ii) lists the alleged prior convictions.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.