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By: **Delegates E. Burns, Bissett, M. Burns, Hutchins, Jacobs, Minnick,  
Montague, D. Murphy, O'Donnell, and Vallario**

Introduced and read first time: January 29, 1998

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 24, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Unlawful Taking of Vehicle - Theft Offenses - Preclusion**

3 FOR the purpose of clarifying that prosecution of a person for the unlawful taking of  
4 a motor vehicle does not preclude prosecution of that person for theft of a motor  
5 vehicle; providing that if a person is convicted of both theft and the unlawful  
6 taking of a motor vehicle for the same act or transaction, the conviction for  
7 unlawful taking of a motor vehicle shall merge for certain purposes into the  
8 conviction for theft; and generally relating to the theft or unlawful taking of a  
9 motor vehicle.

10 BY repealing and reenacting, without amendments,  
11 Article 27 - Crimes and Punishments  
12 Section 342  
13 Annotated Code of Maryland  
14 (1996 Replacement Volume and 1997 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article 27 - Crimes and Punishments  
17 Section 342A  
18 Annotated Code of Maryland  
19 (1996 Replacement Volume and 1997 Supplement)

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

**Article 27 - Crimes and Punishments**

2 342.

3 (a) A person commits the offense of theft when he willfully or knowingly  
4 obtains control which is unauthorized or exerts control which is unauthorized over  
5 property of the owner, and:

6 (1) Has the purpose of depriving the owner of the property; or

7 (2) Willfully or knowingly uses, conceals, or abandons the property in  
8 such manner as to deprive the owner of the property; or

9 (3) Uses, conceals, or abandons the property knowing the use,  
10 concealment, or abandonment probably will deprive the owner of the property.

11 (b) A person commits the offense of theft when he willfully or knowingly uses  
12 deception to obtain and does obtain control over property of the owner, and:

13 (1) Has the purpose of depriving the owner of the property; or

14 (2) Willfully or knowingly uses, conceals, or abandons the property in  
15 such manner as to deprive the owner of the property; or

16 (3) Uses, conceals, or abandons the property knowing such use,  
17 concealment, or abandonment probably will deprive the owner of the property.

18 (c) (1) A person commits the offense of theft if he possesses stolen personal  
19 property knowing that it has been stolen, or believing that it has probably been  
20 stolen, and:

21 (i) Has the purpose of depriving the owner of the property; or

22 (ii) Willfully or knowingly uses, conceals, or abandons the property  
23 in such manner as to deprive the owner of the property; or

24 (iii) Uses, conceals, or abandons the property knowing such use,  
25 concealment, or abandonment probably will deprive the owner of the property.

26 (2) The requisite knowledge may be inferred in the case of a person in  
27 the business of buying or selling goods who:

28 (i) Is found in possession or control of property stolen from two or  
29 more persons on separate occasions; or

30 (ii) During the year preceding the criminal possession charged, has  
31 acquired stolen property in a separate transaction; or

32 (iii) Being a person in the business of buying or selling property of  
33 the sort possessed, acquired it for a consideration which he knew was far below its  
34 reasonable value.

1 (3) In any prosecution for theft by possession of stolen property under  
2 this section, it is not a defense that:

3 (i) The person who stole the property has not been convicted,  
4 apprehended, or identified; or

5 (ii) The defendant stole or participated in the stealing of the  
6 property; or

7 (iii) The stealing of the property did not occur in this State.

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

12 (d) A person commits the offense of theft when he obtains control over  
13 property of another which he knows to have been lost or mislaid, or to have been  
14 delivered under a mistake as to the identity of the recipient or nature or amount of  
15 the property if he:

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

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

20 (3) Has the purpose of depriving the owner permanently of the use or  
21 benefit of the property either when he obtains the property, or at any later time.

22 (e) A person commits the offense of theft when he obtains the services of  
23 another which are available only for compensation by:

24 (1) Deception; or

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

27 (f) (1) A person convicted of theft where the property or services that was  
28 the subject of the theft has a value of \$300 or greater is guilty of a felony and shall  
29 restore the property taken to the owner or pay him the value of the property or  
30 services, and be fined not more than \$1,000, or be imprisoned for not more than 15  
31 years, or be both fined and imprisoned in the discretion of the court.

32 (2) A person convicted of theft where the property or services that was  
33 the subject of the theft has a value of less than \$300 is guilty of a misdemeanor and  
34 shall restore the property taken to the owner or pay him the value of the property or  
35 services, and be fined not more than \$500, or be imprisoned for not more than 18  
36 months, or be both fined and imprisoned in the discretion of the court; however, all  
37 actions or prosecutions for theft where the property or services that was the subject of

1 the theft has a value of less than \$300 shall be commenced within 2 years after the  
2 commission of the offense.

3 342A.

4 (a) In this section, "owner" means any person who has a lawful interest in or  
5 is in lawful possession of a motor vehicle by consent or chain of consent of the actual  
6 title owner.

7 (b) A person, or the person's aiders or abettors, may not knowingly and  
8 willfully take a motor vehicle out of the lawful custody, control, or use of the owner  
9 without the owner's consent.

10 (c) A person who violates this section shall restore the motor vehicle so taken  
11 and carried away, or, if unable to do so, shall pay to the owner the full value of the  
12 motor vehicle.

13 (d) A person who violates this section is guilty of the felony of taking a motor  
14 vehicle and on conviction is subject to a fine of not more than \$5,000 or imprisonment  
15 for not more than 5 years or both.

16 (E) (1) THIS SECTION DOES NOT PRECLUDE PROSECUTION FOR THEFT OF A  
17 MOTOR VEHICLE UNDER § 342 OF THIS SUBHEADING.

18 (2) IF A PERSON IS CONVICTED UNDER § 342 OF THIS SUBHEADING AND  
19 THIS SECTION FOR THE SAME ACT OR TRANSACTION, THE CONVICTION UNDER THIS  
20 SECTION SHALL MERGE FOR SENTENCING PURPOSES INTO THE CONVICTION UNDER  
21 § 342 OF THIS SUBHEADING.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 1998.