

SENATE BILL 59

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1998 Regular Session
8lr6038

(PRE-FILED)

By: **Chairman, Judicial Proceedings Committee (Departmental - State
Police, Dept. of)**

Requested: October 8, 1997

Introduced and read first time: January 14, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Theft - Admissibility of Affidavit**

3 FOR the purpose of authorizing the introduction of a certain affidavit as evidence of
4 certain facts in a criminal case involving the theft, unlawful taking, or
5 unauthorized use of a motor vehicle; requiring the State to provide written
6 notice to the defendant within a certain period of time that the State intends to
7 rely on certain evidence and introduce certain evidence at the proceeding;
8 allowing the presence of a certain witness within a certain period of time; and
9 generally relating to the introduction of evidence of theft of motor vehicles.

10 BY repealing and reenacting, without amendments,
11 Article 27 - Crimes and Punishments
12 Section 342, 342A, and 349
13 Annotated Code of Maryland
14 (1996 Replacement Volume and 1997 Supplement)

15 BY adding to
16 Article 27 - Crimes and Punishments
17 Section 342B
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:

22 **Article 27 - Crimes and Punishments**

23 342.

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

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

2 (2) Willfully or knowingly uses, conceals, or abandons the property in
3 such manner as to deprive 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 commits the offense of theft when he willfully or knowingly uses
7 deception to obtain and does obtain control over property of the owner, and:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (ii) The defendant stole or participated in the stealing of the
2 property; or

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

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

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

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

14 (2) Fails to take reasonable measures to restore the property to the
15 owner; and

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

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

20 (1) Deception; or

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

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

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

1 342A.

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

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

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

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

14 342B.

15 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN A CRIMINAL CASE
16 INVOLVING THE THEFT, UNLAWFUL TAKING, OR UNAUTHORIZED USE OF A MOTOR
17 VEHICLE, AN AFFIDAVIT BY THE LAWFUL OWNER OF THE MOTOR VEHICLE MAY BE
18 INTRODUCED IN THE CRIMINAL PROCEEDING AS EVIDENCE THAT:

19 (1) THE MOTOR VEHICLE WAS TAKEN UNLAWFULLY FROM THE LAWFUL
20 OWNER WITHOUT THE AUTHORIZATION OF THE LAWFUL OWNER; AND

21 (2) THE DEFENDANT IN THE CRIMINAL CASE DID NOT HAVE
22 PERMISSION TO OPERATE, USE, OR POSSESS THE MOTOR VEHICLE.

23 (B) (1) IN A PROCEEDING IN WHICH THE STATE INTENDS TO INTRODUCE
24 INTO EVIDENCE AN AFFIDAVIT AS PROVIDED UNDER SUBSECTION (A) OF THIS
25 SECTION, THE STATE SHALL PROVIDE AT LEAST 15 DAYS WRITTEN NOTICE TO THE
26 DEFENDANT THAT THE STATE INTENDS TO:

27 (I) RELY ON THE AFFIDAVIT; AND

28 (II) INTRODUCE THE AFFIDAVIT INTO EVIDENCE AT THE
29 PROCEEDING.

30 (2) AT LEAST 10 DAYS PRIOR TO THE PROCEEDING DESCRIBED IN
31 PARAGRAPH (1) OF THIS SUBSECTION, THE DEFENDANT MAY:

32 (I) REQUEST A SUMMONS TO COMPEL THE ATTENDANCE OF THE
33 WITNESS; AND

34 (II) EXAMINE THE WITNESS WHO APPEARS AT TRIAL.

1 349.

2 Any person or persons, his or their aiders or abettors who shall enter, or being
3 upon the premises of any other person, body corporate or politic in the State, shall,
4 against the will and consent of said person or persons, body corporate or politic or
5 their agents, take and carry away any horse, mare, colt, gelding, mule, ass, sheep,
6 hog, ox or cow, or any carriage, wagon, buggy, cart, boat, craft, vessel, or any other
7 vehicle including motor vehicle as defined in the laws of this State relating to such, or
8 property whatsoever, or take and carry away out of the custody or use of any person
9 or persons, body corporate or politic, or his or their agents, any of the
10 above-enumerated property at whatsoever place the same may be found, shall upon
11 conviction thereof in any of the courts of this State having criminal jurisdiction be
12 adjudged guilty of a misdemeanor, and shall restore the property so taken and carried
13 away, or, if unable so to do, shall pay to the owner or owners the full value thereof,
14 and be fined not less than fifty nor more than one hundred dollars, or be imprisoned
15 in the county or city jail, or the house of correction, for not less than six months nor
16 more than four years, or be both fined and imprisoned as aforesaid, in the discretion
17 of the court, although it may appear from the evidence that such person or persons,
18 his or their aiders and abettors, took and carried away the property or any portion of
19 the same enumerated in this section, for his or their present use, and not with the
20 intent of appropriating or converting the same.

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