

SENATE BILL 59

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1998 Regular Session  
8lr6038

(PRE-FILED)

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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

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 17, 1998

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CHAPTER \_\_\_\_\_

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 defendant to require the State to compel the appearance  
9 of a certain witness within a certain period of time; and generally relating to the  
10 introduction of evidence of theft of motor vehicles.

11 BY repealing and reenacting, without amendments,  
12 Article 27 - Crimes and Punishments  
13 Section 342, 342A, and 349  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume and 1997 Supplement)

16 BY adding to  
17 Article 27 - Crimes and Punishments  
18 Section 342B  
19 Annotated Code of Maryland  
20 (1996 Replacement Volume and 1997 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 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 342B.

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

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

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

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

29 (I) RELY ON THE AFFIDAVIT; AND

30 (II) INTRODUCE THE AFFIDAVIT INTO EVIDENCE AT THE  
31 PROCEEDING.

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

34 (I) AT LEAST 10 DAYS PRIOR TO THE PROCEEDING DESCRIBED IN  
35 PARAGRAPH (1) OF THIS SUBSECTION, REQUEST A SUMMONS REQUIRE THE STATE TO  
36 COMPEL THE ATTENDANCE OF THE WITNESS; AND

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

2 349.

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

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