

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL NO. 382

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in lines 2 and 3, strike “and Other Personal Property” and substitute “- Theft Offenses - Preclusion”; and strike beginning with “repealing” in line 4 down through “property” in line 8 and substitute “clarifying that prosecution of a person for the unlawful taking of a motor vehicle does not preclude prosecution of that person for theft of a motor vehicle; providing that if a person is convicted of both theft and the unlawful taking of a motor vehicle for the same act or transaction, the conviction for unlawful taking of a motor vehicle shall merge for certain purposes into the conviction for theft; increasing a certain penalty; and generally relating to the theft or unlawful taking of a motor vehicle”.

AMENDMENT NO. 2

On page 1, strike in their entirety lines 9 through 13, inclusive, and substitute:

“BY repealing and reenacting, without amendments,
Article 27 - Crimes and Punishments
Section 342
Annotated Code of Maryland
(1996 Replacement Volume and 1998 Supplement)”;

in line 16, strike “349” and substitute “342A”; and strike in their entirety lines 19 through 24, inclusive.

AMENDMENT NO. 3

On page 2, after line 1, insert:

“342.”

(Over)

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

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

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

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

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

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

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

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

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

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

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

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

(2) The requisite knowledge may be inferred in the case of a person in the

business of buying or selling goods who:

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

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

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

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

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

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

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

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

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

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

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

(Over)

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

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

(1) Deception; or

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

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

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

in line 2, strike the bracket; in line 14, strike “5” and substitute “10”; in the same line, strike the bracket; and after line 14, insert:

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

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

§ 342 OF THIS SUBHEADING.”.

On pages 2 and 3, strike in their entirety the lines beginning with line 15 on page 2 through line 5 on page 3, inclusive.