

HOUSE BILL 949

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HB 313/98 - JUD

1999 Regular Session
9r2140
CF 9r2388

By: **Delegates D. Murphy, Burns, Vallario, and DeCarlo**
Introduced and read first time: February 12, 1999
Assigned to: Judiciary

A BILL ENTITLED

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 1998 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 1998 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (1) Deception; or

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

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

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

34 342A.

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

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

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

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

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

12 (2) IF A PERSON IS CONVICTED UNDER § 342 OF THIS SUBHEADING AND
13 THIS SECTION FOR THE SAME ACT OR TRANSACTION, THE CONVICTION UNDER THIS
14 SECTION SHALL MERGE FOR SENTENCING PURPOSES INTO THE CONVICTION UNDER
15 § 342 OF THIS SUBHEADING.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 1999.