

SENATE BILL 382

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1999 Regular Session
(9r1769)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senator Jimeno**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **~~Crimes-- Unlawful Taking and Use of Motor Vehicles of Vehicle and Other~~**
3 **~~Personal Property - Theft Offenses - Preclusion~~**

4 FOR the purpose of ~~repealing provisions pertaining to the unlawful taking of a motor~~
5 ~~vehicle; increasing the penalties for unauthorized taking and use of a motor~~
6 ~~vehicle and certain other personal property; and generally relating to the~~
7 ~~unlawful taking and the unauthorized use of a motor vehicle and certain other~~
8 ~~personal property clarifying that prosecution of a person for the unlawful taking~~
9 ~~of a motor vehicle does not preclude prosecution of that person for theft of a~~
10 ~~motor vehicle; providing that if a person is convicted of both theft and the~~
11 ~~unlawful taking of a motor vehicle for the same act or transaction, the conviction~~
12 ~~for unlawful taking of a motor vehicle shall merge for certain purposes into the~~
13 ~~conviction for theft; increasing a certain penalty; and generally relating to the~~
14 ~~theft or unlawful taking of a motor vehicle.~~

15 ~~BY~~ repealing
16 ~~Article 27-- Crimes and Punishments~~

1 ~~Section 342A and 344(b)~~
 2 ~~Annotated Code of Maryland~~
 3 ~~(1996 Replacement Volume and 1998 Supplement)~~

4 BY repealing and reenacting, without amendments,
 5 Article 27 - Crimes and Punishments
 6 Section 342
 7 Annotated Code of Maryland
 8 (1996 Replacement Volume and 1998 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article 27 - Crimes and Punishments
 11 Section ~~349~~ 342A
 12 Annotated Code of Maryland
 13 (1996 Replacement Volume and 1998 Supplement)

14 ~~BY renumbering~~
 15 ~~Article 27 - Crimes and Punishments~~
 16 ~~Section 344(c) and (d), respectively~~
 17 ~~to be Section 344(b) and (e), respectively~~
 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

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

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

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

34 (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 such use,
4 concealment, or abandonment probably will deprive the owner of the property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (1) Deception; or

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

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

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

25 {342A.

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

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

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

35 (d) A person who violates this section is guilty of the felony of taking a motor
36 vehicle and on conviction is subject to a fine of not more than \$5,000 or imprisonment
37 for not more than ~~5- 10~~ 5 years or both.}

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

3 (2) IF A PERSON IS CONVICTED UNDER § 342 OF THIS SUBHEADING AND
 4 THIS SECTION FOR THE SAME ACT OR TRANSACTION, THE CONVICTION UNDER THIS
 5 SECTION SHALL MERGE FOR SENTENCING PURPOSES INTO THE CONVICTION UNDER
 6 § 342 OF THIS SUBHEADING.

7 344.

8 (b) In any indictment, information, warrant, or other charging document for
 9 taking a motor vehicle it is sufficient to use a formula substantially to the following
 10 effect: "That A B on the day of,, in the County (City) aforesaid,
 11 did knowingly and willfully take out of C D's lawful custody, control, or use a motor
 12 vehicle, without the consent of C D, in violation of Article 27, § 342A of the Annotated
 13 Code of Maryland; contrary to the form of the Act of Assembly in such case made and
 14 provided and against the peace, government, and dignity of the State."

15 349.

16 Any person or persons, his or their aiders or abettors who shall enter, or being
 17 upon the premises of any other person, body corporate or politic in the State, shall,
 18 against the will and consent of said person or persons, body corporate or politic or
 19 their agents, take and carry away any horse, mare, colt, gelding, mule, ass, sheep,
 20 hog, ox or cow, or any carriage, wagon, buggy, cart, boat, craft, vessel, or any other
 21 vehicle including motor vehicle as defined in the laws of this State relating to such, or
 22 property whatsoever, or take and carry away out of the custody or use of any person
 23 or persons, body corporate or politic, or his or their agents, any of the
 24 above enumerated property at whatsoever place the same may be found, shall upon
 25 conviction thereof in any of the courts of this State having criminal jurisdiction be
 26 adjudged guilty of a misdemeanor, and shall restore the property so taken and carried
 27 away, or, if unable so to do, shall pay to the owner or owners the full value thereof,
 28 and be fined not [less than fifty nor more than one hundred dollars,] MORE THAN
 29 \$5,000 or be imprisoned [in the county or city jail, or the house of correction,] for not
 30 [less than six months nor more than four] MORE THAN 5 years, or be both fined and
 31 imprisoned as aforesaid, in the discretion of the court, although it may appear from
 32 the evidence that such person or persons, his or their aiders and abettors, took and
 33 carried away the property or any portion of the same enumerated in this section, for
 34 his or their present use, and not with the intent of appropriating or converting the
 35 same.

36 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 344(e) and (d),
 37 respectively, of Article 27—Crimes and Punishments of the Annotated Code of
 38 Maryland be renumbered to be Section(s) 344(b) and (c), respectively.

39 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 40 October 1, 1999.

