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By: Delegate Niemann

Introduced and read first time: February 5, 2004

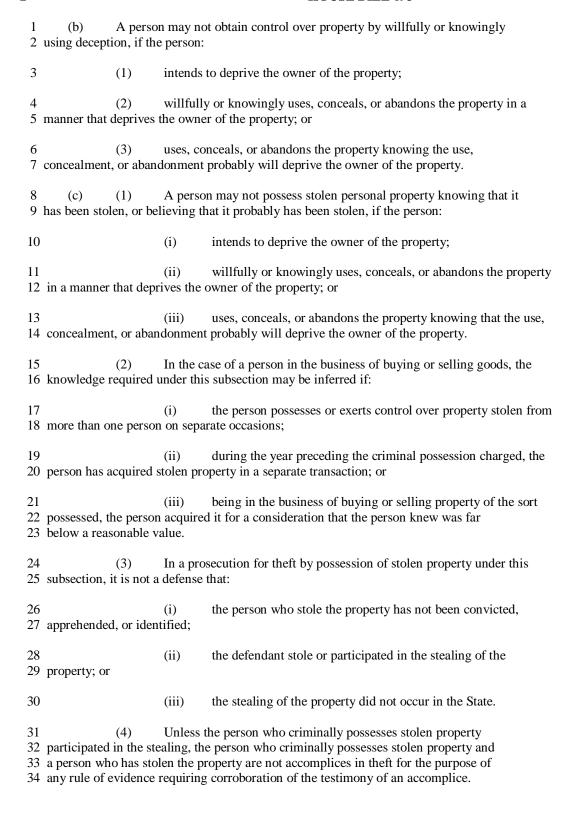
Assigned to: Judiciary

A BILL ENTITLED

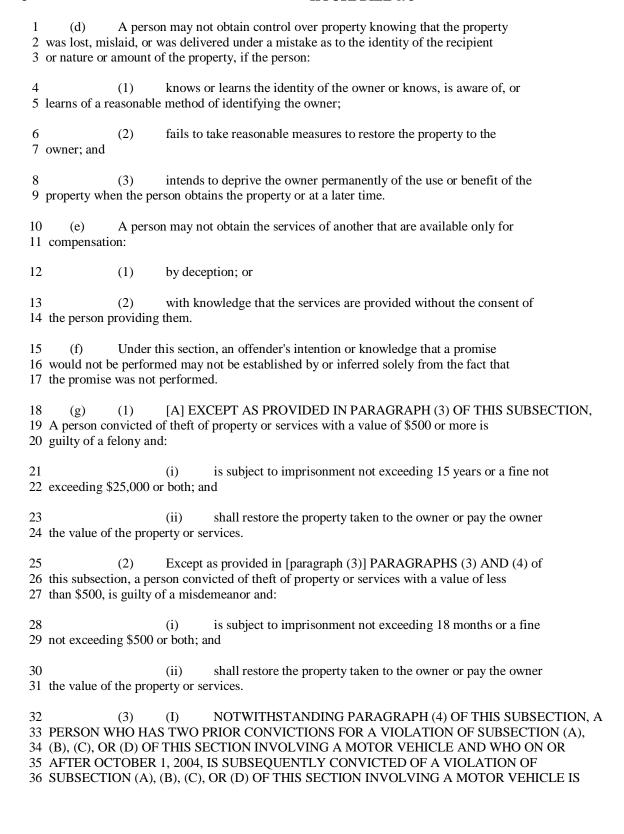
1 AN ACT concerning

2 Motor Vehicle Theft - Two Prior Convictions - Mandatory Minimum Penalty

- 3 FOR the purpose of imposing a certain mandatory minimum term of imprisonment
- 4 for a person who is convicted of certain theft offenses involving a motor vehicle
- 5 when the person has two prior convictions of a certain crime involving a motor
- 6 vehicle; imposing a certain mandatory minimum term of imprisonment for a
- 7 person who is convicted of motor vehicle theft when the person has two prior
- 8 convictions of motor vehicle theft; prohibiting the court from imposing less than
- 9 the mandatory minimum sentence; prohibiting the court from suspending any
- 10 part of the mandatory minimum sentence; and generally relating to a
- 11 mandatory minimum penalty for a person with two prior convictions who is
- 12 convicted of certain crimes involving a motor vehicle.
- 13 BY repealing and reenacting, with amendments,
- 14 Article Criminal Law
- 15 Section 7-104 and 7-105
- 16 Annotated Code of Maryland
- 17 (2002 Volume and 2003 Supplement)
- 18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 19 MARYLAND, That the Laws of Maryland read as follows:
- 20 Article Criminal Law
- 21 7-104.
- 22 (a) A person may not willfully or knowingly obtain or exert unauthorized
- 23 control over property, if the person:
- 24 (1) intends to deprive the owner of the property;
- 25 (2) willfully or knowingly uses, conceals, or abandons the property in a
- 26 manner that deprives the owner of the property; or
- 27 (3) uses, conceals, or abandons the property knowing the use,
- 28 concealment, or abandonment probably will deprive the owner of the property.



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	IMPRISONMENT FOR NOT LESS THAN 5 YEARS.
3 4	(II) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 5 YEARS.
5 6	(III) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 5 YEARS.
9	[(3)] (4) [Subject] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION AND SUBJECT to paragraph [(4)] (5) of this subsection, a person who has two or more prior convictions under this subtitle and who is convicted of theft of property or services with a value of less than \$500 is guilty of a misdemeanor and:
11 12	(i) is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both; and
13 14	(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.
17	[(4)] (5) The court may not impose the penalties under [paragraph (3)] PARAGRAPH (3) OR (4) of this subsection unless the State's Attorney serves notice on the defendant or the defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at least 15 days before trial that:
19 20	(i) the State will seek the penalties under [paragraph (3)] PARAGRAPH (3) OR (4) of this subsection; and
21	(ii) lists the alleged prior convictions.
22 23	(h) (1) If a person is convicted of a violation under this section for failure to pay for motor fuel after the motor fuel was dispensed into a vehicle, the court shall:
24 25	(i) notify the person that the person's driver's license may be suspended under § 16-206.1 of the Transportation Article; and
26	(ii) notify the Motor Vehicle Administration of the violation.
	(2) The Chief Judge of the District Court and the Administrative Office of the Courts, in conjunction with the Motor Vehicle Administration, shall establish uniform procedures for reporting a violation under this subsection.
	(i) An action or prosecution for theft of property or services with a value of less than \$500 shall be commenced within 2 years after the commission of the crime. 7-105.
33 34	(a) In this section, "owner" means a person who has a lawful interest in or is in lawful possession of a motor vehicle by consent or chain of consent of the title owner.

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25 October 1, 2004.

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1 A person may not knowingly and willfully take a motor vehicle out of the (b) 2 owner's lawful custody, control, or use without the owner's consent. [A] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A person 4 who violates this section: (1) is guilty of the felony of taking a motor vehicle and on conviction is 6 subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both; 7 and shall restore the motor vehicle or, if unable to restore the motor 8 9 vehicle, pay to the owner the full value of the motor vehicle. 10 (D) (1) A PERSON WHO HAS TWO PRIOR CONVICTIONS FOR A VIOLATION OF 11 THIS SECTION AND WHO ON OR AFTER OCTOBER 1, 2004, IS SUBSEQUENTLY 12 CONVICTED OF A VIOLATION OF THIS SECTION IS GUILTY OF THE FELONY OF TAKING 13 A MOTOR VEHICLE AND ON CONVICTION SHALL BE SENTENCED TO IMPRISONMENT 14 FOR NOT LESS THAN 5 YEARS. 15 NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT MAY NOT (2) 16 IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 5 YEARS. THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY 17 (3)18 MINIMUM SENTENCE OF 5 YEARS. 19 [(d)](E) This section does not preclude prosecution for theft of a motor (1) 20 vehicle under § 7-104 of this part. 21 If a person is convicted under § 7-104 of this part and this section for 22 the same act or transaction, the conviction under this section shall merge for 23 sentencing purposes into the conviction under § 7-104 of this part.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect