

HOUSE BILL 501

E1
SB 504/08 – JPR

9lr2150
CF SB 192

By: **Delegates Kelly, Dwyer, Kramer, McComas, and Smigiel**
Introduced and read first time: February 4, 2009
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Theft of Rental Property**

3 FOR the purpose of prohibiting a person from hiring or leasing personal property or
4 equipment from another person who is in lawful possession of the personal
5 property or equipment with intent to defraud that person of the rental due
6 under the rental agreement; prohibiting a person from abandoning or willfully
7 refusing to redeliver personal property as required under a rental agreement
8 without the consent of the lessor or the lessor's agent with intent to defraud the
9 lessor or the lessor's agent; establishing penalties for a violation of this Act;
10 making technical corrections; and generally relating to the theft of rental
11 property.

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Law
14 Section 7–104
15 Annotated Code of Maryland
16 (2002 Volume and 2008 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Criminal Law**

20 7–104.

21 (a) A person may not willfully or knowingly obtain or exert unauthorized
22 control over property, if the person:

23 (1) intends to deprive the owner of the property;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (2) willfully or knowingly uses, conceals, or abandons the property in a
2 manner that deprives 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 may not obtain control over property by willfully or knowingly
6 using deception, if the person:

7 (1) intends to deprive the owner of the property;

8 (2) willfully or knowingly uses, conceals, or abandons the property in a
9 manner that deprives the owner of the property; or

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

12 (c) (1) A person may not possess stolen personal property knowing that it
13 has been stolen, or believing that it probably has been stolen, if the person:

14 (i) intends to deprive the owner of the property;

15 (ii) willfully or knowingly uses, conceals, or abandons the
16 property in a manner that deprives the owner of the property; or

17 (iii) uses, conceals, or abandons the property knowing that the
18 use, concealment, or abandonment probably will deprive the owner of the property.

19 (2) In the case of a person in the business of buying or selling goods,
20 the knowledge required under this subsection may be inferred if:

21 (i) the person possesses or exerts control over property stolen
22 from more than one person on separate occasions;

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

25 (iii) being in the business of buying or selling property of the sort
26 possessed, the person acquired it for a consideration that the person knew was far
27 below a reasonable value.

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

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

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

3 (iii) the property was provided by law enforcement as part of an
4 investigation, if the property was described to the defendant as being obtained
5 through the commission of theft; or

6 (iv) the stealing of the property did not occur in the State.

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

11 (d) A person may not obtain control over property knowing that the property
12 was lost, mislaid, or was delivered under a mistake as to the identity of the recipient
13 or nature or amount of the property, if the person:

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

16 (2) fails to take reasonable measures to restore the property to the
17 owner; and

18 (3) intends to deprive the owner permanently of the use or benefit of
19 the property when the person obtains the property or at a later time.

20 (e) A person may not obtain the services of another that are available only
21 for compensation:

22 (1) by deception; or

23 (2) with knowledge that the services are provided without the consent
24 of the person providing them.

25 (F) **A PERSON MAY NOT:**

26 (1) **HIRE OR LEASE PERSONAL PROPERTY OR EQUIPMENT FROM**
27 **ANOTHER PERSON WHO IS IN LAWFUL POSSESSION OF THE PERSONAL**
28 **PROPERTY OR EQUIPMENT WITH INTENT TO DEFRAUD THAT PERSON OF THE**
29 **RENTAL DUE UNDER THE RENTAL AGREEMENT; OR**

30 (2) **ABANDON OR WILLFULLY REFUSE TO REDELIVER PERSONAL**
31 **PROPERTY AS REQUIRED UNDER A RENTAL AGREEMENT WITHOUT THE**
32 **CONSENT OF THE LESSOR OR THE LESSOR'S AGENT WITH INTENT TO DEFRAUD**
33 **THE LESSOR OR THE LESSOR'S AGENT.**

1 [(f)] (G) Under this section, an offender's intention or knowledge that a
2 promise would not be performed may not be established by or inferred solely from the
3 fact that the promise was not performed.

4 [(g)] (H) (1) A person convicted of theft of property or services with a
5 value of \$500 or more is guilty of a felony and:

6 (i) is subject to imprisonment not exceeding 15 years or a fine
7 not exceeding \$25,000 or both; and

8 (ii) shall restore the property taken to the owner or pay the
9 owner the value of the property or services.

10 (2) Except as provided in paragraphs (3) and (4) of this subsection, a
11 person convicted of theft of property or services with a value of less than \$500, is
12 guilty of a misdemeanor and:

13 (i) is subject to imprisonment not exceeding 18 months or a fine
14 not exceeding \$500 or both; and

15 (ii) shall restore the property taken to the owner or pay the
16 owner the value of the property or services.

17 (3) A person convicted of theft of property or services with a value of
18 less than \$100 is guilty of a misdemeanor and:

19 (i) is subject to imprisonment not exceeding 90 days or a fine
20 not exceeding \$500 or both; and

21 (ii) shall restore the property taken to the owner or pay the
22 owner the value of the property or services.

23 (4) Subject to paragraph (5) of this subsection, a person who has two
24 or more prior convictions under this subtitle and who is convicted of theft of property
25 or services with a value of less than \$500 under paragraph (2) of this subsection is
26 guilty of a misdemeanor and:

27 (i) is subject to imprisonment not exceeding 5 years or a fine
28 not exceeding \$5,000 or both; and

29 (ii) shall restore the property taken to the owner or pay the
30 owner the value of the property or services.

31 (5) The court may not impose the penalties under paragraph (4) of this
32 subsection unless the State's Attorney serves notice on the defendant or the
33 defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at
34 least 15 days before trial that:

1 (i) the State will seek the penalties under paragraph (4) of this
2 subsection; and

3 (ii) lists the alleged prior convictions.

4 **[(h)] (I)** (1) If a person is convicted of a violation under this section for
5 failure to pay for motor fuel after the motor fuel was dispensed into a vehicle, the court
6 shall:

7 (i) notify the person that the person's driver's license may be
8 suspended under § 16–206.1 of the Transportation Article; and

9 (ii) notify the Motor Vehicle Administration of the violation.

10 (2) The Chief Judge of the District Court and the Administrative
11 Office of the Courts, in conjunction with the Motor Vehicle Administration, shall
12 establish uniform procedures for reporting a violation under this subsection.

13 **[(i)] (J)** An action or prosecution for a violation of subsection **[(g)(2) or (3)]**
14 **(H)(2) OR (3)** of this section shall be commenced within 2 years after the commission
15 of the crime.

16 **[(j)] (K)** A person who violates this section by use of an interactive
17 computer service may be prosecuted, indicted, tried, and convicted in any county in
18 which the victim resides or the electronic communication originated or terminated.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2009.