

SENATE BILL 131

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CF 2lr1175

By: **Senators Middleton, Astle, Colburn, Dyson, Edwards, Garagiola,
Kasemeyer, Mathias, McFadden, Peters, Pugh, Robey, and Rosapepe**

Introduced and read first time: January 18, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Warrantless Arrests – Theft Crimes**

3 FOR the purpose of expanding the authority of a police officer without a warrant to
4 arrest a person suspected of committing a certain theft crime; and generally
5 relating to warrantless arrests.

6 BY repealing and reenacting, without amendments,
7 Article – Criminal Law
8 Section 7–104(g) and 7–105
9 Annotated Code of Maryland
10 (2002 Volume and 2011 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Procedure
13 Section 2–203(a)
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2011 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Procedure
18 Section 2–203(b)(4)
19 Annotated Code of Maryland
20 (2008 Replacement Volume and 2011 Supplement)

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

23 **Article – Criminal Law**

24 7–104.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (g) (1) A person convicted of theft of property or services with a value of:

2 (i) at least \$1,000 but less than \$10,000 is guilty of a felony
3 and:

4 1. is subject to imprisonment not exceeding 10 years or a
5 fine not exceeding \$10,000 or both; and

6 2. shall restore the property taken to the owner or pay
7 the owner the value of the property or services;

8 (ii) at least \$10,000 but less than \$100,000 is guilty of a felony
9 and:

10 1. is subject to imprisonment not exceeding 15 years or a
11 fine not exceeding \$15,000 or both; and

12 2. shall restore the property taken to the owner or pay
13 the owner the value of the property or services; or

14 (iii) \$100,000 or more is guilty of a felony and:

15 1. is subject to imprisonment not exceeding 25 years or a
16 fine not exceeding \$25,000 or both; and

17 2. shall restore the property taken to the owner or pay
18 the owner the value of the property or services.

19 (2) Except as provided in paragraphs (3) and (4) of this subsection, a
20 person convicted of theft of property or services with a value of less than \$1,000, is
21 guilty of a misdemeanor and:

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

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

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

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

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

1 (4) Subject to paragraph (5) of this subsection, a person who has two
2 or more prior convictions under this subtitle and who is convicted of theft of property
3 or services with a value of less than \$1,000 under paragraph (2) of this subsection is
4 guilty of a misdemeanor and:

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

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

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

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

15 (ii) lists the alleged prior convictions.

16 7-105.

17 (a) In this section, "owner" means a person who has a lawful interest in or is
18 in lawful possession of a motor vehicle by consent or chain of consent of the title
19 owner.

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

22 (c) A person who violates this section:

23 (1) is guilty of the felony of taking a motor vehicle and on conviction is
24 subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both;
25 and

26 (2) shall restore the motor vehicle or, if unable to restore the motor
27 vehicle, pay to the owner the full value of the motor vehicle.

28 (d) (1) This section does not preclude prosecution for theft of a motor
29 vehicle under § 7-104 of this part.

30 (2) If a person is convicted under § 7-104 of this part and this section
31 for the same act or transaction, the conviction under this section shall merge for
32 sentencing purposes into the conviction under § 7-104 of this part.

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Article – Criminal Procedure

2 2–203.

3 (a) A police officer without a warrant may arrest a person if the police officer
4 has probable cause to believe:

5 (1) that the person has committed a crime listed in subsection (b) of
6 this section; and

7 (2) that unless the person is arrested immediately, the person:

8 (i) may not be apprehended;

9 (ii) may cause physical injury or property damage to another; or

10 (iii) may tamper with, dispose of, or destroy evidence.

11 (b) The crimes referred to in subsection (a)(1) of this section are:

12 (4) a theft crime where the value of the property or services stolen is
13 less than ~~[\$500]~~ **\$1,000** under § 7–104 or § 7–105 of the Criminal Law Article or an
14 attempt to commit the crime;

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2012.