

FIRST REGULAR SESSION

HOUSE BILL NO. 516

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RICHARDSON AND MAYER (Co-sponsors).

Read 1st time January 24, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1477L.011

AN ACT

To repeal sections 150.465, 570.010, 570.030, 570.080, 570.090 and 570.120, RSMo 2000, relating to stealing, and to enact in lieu thereof six new sections relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 150.465, 570.010, 570.030, 570.080, 570.090 and 570.120, RSMo 2000, are repealed and six new sections enacted in lieu thereof, to be known as sections 150.465, 570.010, 570.030, 570.080, 570.090 and 570.120, to read as follows:

150.465. 1. No itinerant vendor as defined in section 150.380, and no peddler as defined in section 150.470, shall offer for sale:

(1) Any food solely manufactured and packaged for sale for consumption by a child under the age of two years; or

(2) Drugs, devices and cosmetics as defined in section 196.010, RSMo.

2. This section shall not apply to authorized agents of a manufacturer of any item enumerated in subsection 1 of this section.

3. Violation of this section is a class A misdemeanor.

4. Itinerant vendors and peddlers shall make available upon request of any law enforcement officer any receipt from a producer, manufacturer, wholesaler or retailer of any new or unused property, as defined in section 570.010, RSMo.

5. Any forged receipt produced pursuant to subsection 4 of this section shall be prosecuted pursuant to section 570.090, RSMo.

570.010. As used in this chapter:

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2 (1) "Adulterated" means varying from the standard of composition or quality prescribed
3 by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if
4 none, as set by commercial usage;

5 (2) "Appropriate" means to take, obtain, use, transfer, conceal or retain possession of;

6 (3) "Coercion" means a threat, however communicated:

7 (a) To commit any crime; or

8 (b) To inflict physical injury in the future on the person threatened or another; or

9 (c) To accuse any person of any crime; or

10 (d) To expose any person to hatred, contempt or ridicule; or

11 (e) To harm the credit or business repute of any person; or

12 (f) To take or withhold action as a public servant, or to cause a public servant to take or
13 withhold action; or

14 (g) To inflict any other harm which would not benefit the actor.

15

16 A threat of accusation, lawsuit or other invocation of official action is not coercion if the
17 property sought to be obtained by virtue of such threat was honestly claimed as restitution or
18 indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit
19 or other official action relates, or as compensation for property or lawful service. The defendant
20 shall have the burden of injecting the issue of justification as to any threat;

21 (4) "Credit device" means a writing, number or other device purporting to evidence an
22 undertaking to pay for property or services delivered or rendered to or upon the order of a
23 designated person or bearer;

24 (5) "Dealer" means a person in the business of buying and selling goods;

25 (6) "Debit device" means a card, code, number or other device, other than a check, draft
26 or similar paper instrument, by the use of which a person may initiate an electronic fund transfer,
27 including but not limited to devices that enable electronic transfers of benefits to public
28 assistance recipients;

29 (7) "Deceit" means purposely making a representation which is false and which the actor
30 does not believe to be true and upon which the victim relies, as to a matter of fact, law, value,
31 intention or other state of mind. The term "deceit" does not, however, include falsity as to
32 matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary
33 persons in the group addressed. Deception as to the actor's intention to perform a promise shall
34 not be inferred from the fact alone that he did not subsequently perform the promise;

35 (8) "Deprive" means:

36 (a) To withhold property from the owner permanently; or

37 (b) To restore property only upon payment of reward or other compensation; or

38 (c) To use or dispose of property in a manner that makes recovery of the property by the
39 owner unlikely;

40 (9) "Misabeled" means varying from the standard of truth or disclosure in labeling
41 prescribed by statute or lawfully promulgated administrative regulations of this state lawfully
42 filed, or if none, as set by commercial usage; or represented as being another person's product,
43 though otherwise accurately labeled as to quality and quantity;

44 (10) **"New and unused property" means tangible personal property that has never**
45 **been used since its production or manufacture and is in its original unopened package or**
46 **container if such property was packaged;**

47 (11) "Of another" property or services is that "of another" if any natural person,
48 corporation, partnership, association, governmental subdivision or instrumentality, other than
49 the actor, has a possessory or proprietary interest therein, except that property shall not be
50 deemed property of another who has only a security interest therein, even if legal title is in the
51 creditor pursuant to a conditional sales contract or other security arrangement;

52 [(11)] (12) "Property" means anything of value, whether real or personal, tangible or
53 intangible, in possession or in action, and shall include but not be limited to the evidence of a
54 debt actually executed but not delivered or issued as a valid instrument;

55 [(12)] (13) "Receiving" means acquiring possession, control or title or lending on the
56 security of the property;

57 [(13)] (14) "Services" includes transportation, telephone, electricity, gas, water, or other
58 public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and
59 use of vehicles;

60 [(14)] (15) "Writing" includes printing, any other method of recording information,
61 money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and
62 any other symbols of value, right, privilege or identification.

570.030. 1. A person commits the crime of stealing if he or she appropriates property
2 or services of another with the purpose to deprive him or her thereof, either without his or her
3 consent or by means of deceit or coercion.

4 2. Evidence of the following is admissible in any criminal prosecution under this section
5 on the issue of the requisite knowledge or belief of the alleged stealer:

6 (1) That he or she failed or refused to pay for property or services of a hotel, restaurant,
7 inn or boardinghouse;

8 (2) That he or she gave in payment for property or services of a hotel, restaurant, inn or
9 boardinghouse a check or negotiable paper on which payment was refused;

10 (3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not
11 pay for property or services;

12 (4) That he or she surreptitiously removed or attempted to remove his or her baggage
13 from a hotel, inn or boardinghouse;

14 (5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters,
15 transfers, makes, alters, counterfeits or reproduces a retail sales receipt, price tag or
16 universal price code label, or possesses with intent to cheat or defraud, the device that
17 manufactures fraudulent receipts or universal price code labels.

18 3. Stealing is a class D felony if the value of the property or services is at least one
19 hundred fifty dollars but less than four hundred twenty-five dollars.

20 4. Stealing is a class C felony if:

21 (1) The value of the property or services appropriated is [seven] **four** hundred [fifty]
22 **twenty-five** dollars or more; or

23 (2) The actor physically takes the property appropriated from the person of the victim;
24 or

25 (3) The property appropriated consists of:

26 (a) Any motor vehicle, watercraft or aircraft; or

27 (b) Any will or unrecorded deed affecting real property; or

28 (c) Any credit card or letter of credit; or

29 (d) Any firearms; or

30 (e) A United States national flag designed, intended and used for display on buildings
31 or stationary flagstaffs in the open; or

32 (f) Any original copy of an act, bill or resolution, introduced or acted upon by the
33 legislature of the state of Missouri; or

34 (g) Any pleading, notice, judgment or any other record or entry of any court of this state,
35 any other state or of the United States; or

36 (h) Any book of registration or list of voters required by chapter 115, RSMo; or

37 (i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

38 (j) Live fish raised for commercial sale with a value of seventy-five dollars; or

39 (k) Any controlled substance as defined by section 195.010, RSMo.

40 [4.] 5. If an actor appropriates any material with a value less than one hundred fifty
41 dollars in violation of this section with the intent to use such material to manufacture, compound,
42 produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues,
43 then such violation is a class D felony. The theft of any amount of anhydrous ammonia is a class
44 D felony.

45 [5.] 6. The theft of any item of property or services [under] **pursuant to** subsection 3 of
46 this section which exceeds [seven] **one** hundred fifty dollars may be considered a separate felony
47 and may be charged in separate counts.

48 [6.] 7. Any person with a prior conviction of paragraph (i) of subdivision (3) of
49 subsection [3] 4 of this section and who violates the provisions of paragraph (i) of subdivision
50 (3) of subsection [3] 4 of this section when the value of the animal or animals stolen exceeds
51 three thousand dollars is guilty of a class B felony.

52 [7.] 8. Any violation of this section for which no other penalty is specified in this section
53 is a class A misdemeanor.

570.080. 1. A person commits the crime of receiving stolen property if for the purpose
2 of depriving the owner of a lawful interest therein, [he] **the person** receives, retains or disposes
3 of property of another knowing that it has been stolen, or believing that it has been stolen.

4 2. Evidence of the following is admissible in any criminal prosecution [under] **pursuant**
5 **to** this section to prove the requisite knowledge or belief of the alleged receiver:

6 (1) That [he] **the person** was found in possession or control of other property stolen on
7 separate occasions from two or more persons;

8 (2) That [he] **the person** received other stolen property in another transaction within the
9 year preceding the transaction charged;

10 (3) That [he] **the person** acquired the stolen property for a consideration which [he] **the**
11 **person** knew was far below its reasonable value.

12 3. Receiving stolen property is a class A misdemeanor unless the property involved has
13 a value of **at least** one hundred fifty dollars **but less than four hundred twenty-five dollars,**
14 **in which case receiving stolen property is a class D felony. If the property involved has a**
15 **value of four hundred twenty-five dollars** or more, or the person receiving the property is a
16 dealer in goods of the type in question, in which cases receiving stolen property is a class C
17 felony.

570.090. 1. A person commits the crime of forgery if, with the purpose to defraud, [he]
2 **the person:**

3 (1) Makes, completes, alters or authenticates any writing so that it purports to have been
4 made by another or at another time or place or in a numbered sequence other than was in fact the
5 case or with different terms or by authority of one who did not give such authority; or

6 (2) Erases, obliterates or destroys any writing; or

7 (3) Makes or alters anything other than a writing, **including receipts and universal**
8 **product codes**, so that it purports to have a genuineness, antiquity, rarity, ownership or
9 authorship which it does not possess; or

10 (4) Uses as genuine, or possesses for the purpose of using as genuine, or transfers with
11 the knowledge or belief that it will be used as genuine, any writing or other thing **including**
12 **receipts and universal product codes**, which the actor knows has been made or altered in the
13 manner described in this section.

14 2. Forgery is a class C felony.

570.120. 1. A person commits the crime of passing a bad check when:

2 (1) With purpose to defraud, [he] **the person** makes, issues or passes a check or other
3 similar sight order for the payment of money, knowing that it will not be paid by the drawee, or
4 that there is no such drawee; or

5 (2) [He] **The person** makes, issues, or passes a check or other similar sight order for the
6 payment of money, knowing that there are insufficient funds in [his] **the person's** account or that
7 there is no such account or no drawee and fails to pay the check or sight order within ten days
8 after receiving actual notice in writing that it has not been paid because of insufficient funds or
9 credit with the drawee or because there is no such drawee.

10 2. As used in subdivision (2) of subsection 1 of this section, actual notice in writing
11 means notice of the nonpayment which is actually received by the defendant. Such notice may
12 include the service of summons or warrant upon the defendant for the initiation of the
13 prosecution of the check or checks which are the subject matter of the prosecution if the
14 summons or warrant contains information of the ten-day period during which the instrument may
15 be paid and that payment of the instrument within such ten-day period will result in dismissal
16 of the charges. The requirement of notice shall also be satisfied for written communications
17 which are tendered to the defendant and which the defendant refuses to accept.

18 3. The face amounts of any bad checks passed pursuant to one course of conduct within
19 any ten-day period may be aggregated in determining the grade of the offense.

20 4. Passing bad checks is a class A misdemeanor, unless:

21 (1) The face amount of the check or sight order or the aggregated amounts is one
22 hundred fifty dollars or more; or

23 (2) The issuer had no account with the drawee or if there was no such drawee at the time
24 the check or order was issued, in which cases passing bad checks is a class D felony.

25 5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney
26 or circuit attorney who takes any action [under] **pursuant to** the provisions of this section shall
27 collect from the issuer in such action an administrative handling cost. The cost shall be five
28 dollars for checks of less than ten dollars, ten dollars for checks of ten dollars but less than one
29 hundred dollars, and twenty-five dollars for checks of one hundred dollars or more.
30 Notwithstanding the provisions of sections 50.525 to 50.745, RSMo, the costs provided for in
31 this subsection shall be deposited by the county treasurer into a separate interest-bearing fund
32 to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended,
33 upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to
34 issue checks thereon, only for purposes related to that previously authorized in this section. Any
35 revenues that are not required for the purposes of this section may be placed in the general

36 revenue fund of the county or city not within a county.

37 (2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney
38 for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial
39 and witness preparation, additional employees for the staff of the prosecuting or circuit attorney
40 and employees' salaries.

41 (3) This fund may be audited by the state auditor's office or the appropriate auditing
42 agency.

43 (4) If the moneys collected and deposited into this fund are not totally expended
44 annually, then the unexpended balance shall remain in said fund and the balance shall be kept
45 in said fund to accumulate from year to year.

46 6. [Notwithstanding any other provisions of law to the contrary, in addition to the
47 administrative handling costs provided for in subsection 5 of this section, the prosecuting
48 attorney or circuit attorney may, in his discretion, collect from the issuer, in addition to the face
49 amount of the check, a reasonable service charge, which along with the face amount of the check
50 shall be turned over to the party to whom the bad check was issued. If the prosecuting attorney
51 or circuit attorney does not collect the service charge and the face amount of the check, the party
52 to whom the check was issued may collect from the issuer a reasonable service charge along with
53 the face amount of the check.] **Notwithstanding any other provision of law to the contrary:**

54 **(1) In addition to the administrative handling costs provided for in subsection 5 of**
55 **this section, the prosecuting attorney or circuit attorney shall collect from the issuer, in**
56 **addition to the face amount of the check, a reasonable service charge, which along with the**
57 **face amount of the check, shall be turned over to the party to whom the bad check was**
58 **issued;**

59 **(2) If a check that is dishonored or returned unpaid by a financial institution is not**
60 **referred to the prosecuting attorney or circuit attorney for any action pursuant to the**
61 **provisions of this section, the party to whom the check was issued, or his or her agent or**
62 **assignee, or a holder, may collect from the issuer, in addition to the face amount of the**
63 **check, a reasonable service charge, not to exceed thirty dollars, plus an amount equal to**
64 **the actual charge by the depository institution for the return of each unpaid or dishonored**
65 **instrument.**

66 7. In all cases where a prosecutor receives notice from the original holder that a person
67 has violated this section with respect to a payroll check or order, the prosecutor, if he determines
68 there is a violation of this section, shall file an information or seek an indictment within sixty
69 days of such notice and may file an information or seek an indictment thereafter if the prosecutor
70 has failed through neglect or mistake to do so within sixty days of such notice and if he
71 determines there is sufficient evidence shall further prosecute such cases.

72 8. When any financial institution returns a dishonored check to the person who deposited
73 such check, it shall be in substantially the same physical condition as when deposited, or in such
74 condition as to provide the person who deposited the check the information required to identify
75 the person who wrote the check.