

SECOND REGULAR SESSION

# HOUSE BILL NO. 1197

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CUNNINGHAM (86).

Pre-filed December 28, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3513L.02I

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### AN ACT

To repeal section 570.040, RSMo, and to enact in lieu thereof one new section relating to stealing, with penalty provisions.

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

Section A. Section 570.040, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 570.040, to read as follows:

570.040. 1. Every person who has previously pled guilty or been found guilty [on two separate occasions of a] **of two** stealing-related [offense] **offenses where such offenses were committed on two separate occasions, and** where such offenses occurred within ten years of the date of occurrence of the present offense [and where the person received a sentence of ten days or more on such previous offense] and who subsequently pleads guilty or is found guilty of a stealing-related offense is guilty of a class D felony, unless the subsequent plea or guilty verdict is pursuant to paragraph (a) of subdivision (3) of subsection 3 of section 570.030, in which case the person shall be guilty of a class B felony, and shall be punished accordingly.

2. As used in this section, the term "stealing-related offense" shall include federal and state violations of criminal statutes against stealing, **robbery**, or buying or receiving stolen property and shall also include municipal ordinances against same if the defendant was either represented by counsel or knowingly waived counsel in writing and the judge accepting the plea or making the findings was a licensed attorney at the time of the court proceedings.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14           3. Evidence of prior guilty pleas or findings of guilt shall be heard by the court, out of  
15 the hearing of the jury, prior to the submission of the case to the jury, and the court shall  
16 determine the existence of the prior guilty pleas or findings of guilt.

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