

HOUSE BILL No. 2278

AN ACT concerning crimes, criminal procedure and punishment; relating to theft, burglary and criminal deprivation; relating to firearms; amending K.S.A. 2012 Supp. 21-5801, 21-5803 and 21-5807 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2012 Supp. 21-5801 is hereby amended to read as follows: 21-5801. (a) Theft is any of the following acts done with intent to permanently deprive the owner of the possession, use or benefit of the owner's property or services:

(1) Obtaining or exerting unauthorized control over property or services;

(2) obtaining control over property or services, by deception;

(3) obtaining control over property or services, by threat;

(4) obtaining control over stolen property or services knowing the property or services to have been stolen by another; or

(5) knowingly dispensing motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaving the premises of the establishment without making payment for the motor fuel.

(b) ~~Except as provided in subsection (c),~~ Theft of:

(1) Property or services of the value of \$100,000 or more is a severity level 5, nonperson felony;

(2) property or services of the value of at least \$25,000 but less than \$100,000 is a severity level 7, nonperson felony;

(3) property or services of the value of at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony, *except as provided in subsection (b)(7)*;

(4) property or services of the value of less than \$1,000 is a class A nonperson misdemeanor, except as provided in subsection (b)(5) ~~or~~, (b)(6) *or* (b)(7);

(5) property ~~regardless~~ of the value of *less than \$1,000* from three separate mercantile establishments within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct is a severity level 9, nonperson felony; ~~and~~

(6) property of the value of less than \$1,000 is a severity level 9, nonperson felony if committed by a person who has been convicted of theft two or more times; *and*

(7) *property which is a firearm of the value of less than \$25,000 is a severity level 9 nonperson felony.*

(c) As used in this section:

(1) "Conviction" or "convicted" includes being convicted of a violation of K.S.A. 21-3701, prior to its repeal, this section or a municipal ordinance which prohibits the acts that this section prohibits;

(2) "regulated scrap metal" means the same as in K.S.A. 2012 Supp. 50-6,109, and amendments thereto; and

(3) "value" means the value of the property or, if the property is regulated scrap metal, the cost to restore the site of the theft of such regulated scrap metal to its condition at the time immediately prior to the theft of such regulated scrap metal, whichever is greater.

Sec. 2. K.S.A. 2012 Supp. 21-5803 is hereby amended to read as follows: 21-5803. (a) Criminal deprivation of property is obtaining or exerting unauthorized control over property, with intent to temporarily deprive the owner of the use thereof, without the owner's consent but not with the intent of permanently depriving the owner of the possession, use or benefit of such owner's property.

(b) (1) (A) Criminal deprivation of property that is a motor vehicle is a:

(i) Class A nonperson misdemeanor, except as provided in subsection (b)(1)(A)(ii); and

(ii) severity level 9, nonperson felony upon a third or subsequent conviction.

(B) Upon a first conviction of subsection (b)(1)(A), a person shall be sentenced to not less than 30 days nor more than one year's imprisonment and fined not less than \$100. Upon a second conviction of subsection (b)(1)(A), a person shall be sentenced to not less than 60 days nor more than one year's imprisonment and fined not less than \$200. The person convicted shall not be eligible for release on probation, suspension or

reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(2) *Criminal deprivation of property that is a firearm is a severity level 9, nonperson felony.*

~~(2)~~(3) Criminal deprivation of property other than a motor vehicle or a firearm is a class A nonperson misdemeanor. Upon a second or subsequent conviction of this paragraph, a person shall be sentenced to not less than 30 days imprisonment and fined not less than \$100.

~~(3)~~(4) The mandatory provisions of this subsection shall not apply to any person where such application would result in a manifest injustice.

(c) As used in this section, “motor vehicle” means the same as in K.S.A. 8-1437, and amendments thereto.

Sec. 3. K.S.A. 2012 Supp. 21-5807 is hereby amended to read as follows: 21-5807. (a) Burglary is, without authority, entering into or remaining within any:

(1) Dwelling, with intent to commit a felony, theft or sexually motivated crime therein;

(2) building, manufactured home, mobile home, tent or other structure which is not a dwelling, with intent to commit a felony, theft or sexually motivated crime therein; or

(3) vehicle, aircraft, watercraft, railroad car or other means of conveyance of persons or property, with intent to commit a felony, theft or sexually motivated crime therein.

(b) Aggravated burglary is, without authority, entering into or remaining within any building, manufactured home, mobile home, tent or other structure, or any vehicle, aircraft, watercraft, railroad car or other means of conveyance of persons or property in which there is a human being with intent to commit a felony, theft or sexually motivated crime therein.

(c) (1) Burglary as defined in:

(A) Subsection (a)(1) is a severity level 7, person felony, *except as provided in subsection (c)(2)*;

(B) subsection (a)(2) is a severity level 7, nonperson felony, *except as provided in subsection (c)(2)*; ~~and~~

(C) subsection (a)(3) is a severity level 9, nonperson felony, *except as provided in subsection (c)(2)*; and

(2) *subsection (a)(1), (a)(2) or (a)(3) with the intent to commit the theft of a firearm is a severity level 5, nonperson felony.*

~~(2)~~(3) Aggravated burglary is a severity level 5, person felony.

(d) As used in this section, “sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant’s sexual gratification.

Sec. 4. K.S.A. 2012 Supp. 21-5801, 21-5803 and 21-5807 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.