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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3040

02/11/2020 Authored by Garofalo

The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

1.1 A bill for an act

1.2 relating to public safety; establishing strict liability for possessing stolen property

1.3 within ten years of certain prior convictions; amending Minnesota Statutes 2018,

1.4 section 609.53, subdivision 1; Minnesota Statutes 2019 Supplement, section 609.52,

1.5 subdivision 2.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2019 Supplement, section 609.52, subdivision 2, is amended

1.8 to read:

1.9 Subd. 2. **Acts constituting theft.** (a) Whoever does any of the following commits theft

1.10 and may be sentenced as provided in subdivision 3:

1.11 (1) intentionally and without claim of right takes, uses, transfers, conceals or retains

1.12 possession of movable property of another without the other's consent and with intent to

1.13 deprive the owner permanently of possession of the property; or

1.14 (2) with or without having a legal interest in movable property, intentionally and without

1.15 consent, takes the property out of the possession of a pledgee or other person having a

1.16 superior right of possession, with intent thereby to deprive the pledgee or other person

1.17 permanently of the possession of the property; or

1.18 (3) obtains for the actor or another the possession, custody, or title to property of or

1.19 performance of services by a third person by intentionally deceiving the third person with

1.20 a false representation which is known to be false, made with intent to defraud, and which

1.21 does defraud the person to whom it is made. "False representation" includes without

1.22 limitation:

2.1 (i) the issuance of a check, draft, or order for the payment of money, except a forged
2.2 check as defined in section 609.631, or the delivery of property knowing that the actor is
2.3 not entitled to draw upon the drawee therefor or to order the payment or delivery thereof;
2.4 or

2.5 (ii) a promise made with intent not to perform. Failure to perform is not evidence of
2.6 intent not to perform unless corroborated by other substantial evidence; or

2.7 (iii) the preparation or filing of a claim for reimbursement, a rate application, or a cost
2.8 report used to establish a rate or claim for payment for medical care provided to a recipient
2.9 of medical assistance under chapter 256B, which intentionally and falsely states the costs
2.10 of or actual services provided by a vendor of medical care; or

2.11 (iv) the preparation or filing of a claim for reimbursement for providing treatment or
2.12 supplies required to be furnished to an employee under section 176.135 which intentionally
2.13 and falsely states the costs of or actual treatment or supplies provided; or

2.14 (v) the preparation or filing of a claim for reimbursement for providing treatment or
2.15 supplies required to be furnished to an employee under section 176.135 for treatment or
2.16 supplies that the provider knew were medically unnecessary, inappropriate, or excessive;
2.17 or

2.18 (4) by swindling, whether by artifice, trick, device, or any other means, obtains property
2.19 or services from another person; or

2.20 (5) intentionally commits any of the acts listed in this subdivision but with intent to
2.21 exercise temporary control only and:

2.22 (i) the control exercised manifests an indifference to the rights of the owner or the
2.23 restoration of the property to the owner; or

2.24 (ii) the actor pledges or otherwise attempts to subject the property to an adverse claim;
2.25 or

2.26 (iii) the actor intends to restore the property only on condition that the owner pay a
2.27 reward or buy back or make other compensation; or

2.28 (6) finds lost property and, knowing or having reasonable means of ascertaining the true
2.29 owner, appropriates it to the finder's own use or to that of another not entitled thereto without
2.30 first having made reasonable effort to find the owner and offer and surrender the property
2.31 to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who:

(i) with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof; or

(ii) sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease or rental contract with intent to deprive the lessor of possession thereof; or

(iii) does not return the property to the lessor at the end of the lease or rental term, plus agreed-upon extensions, with intent to wrongfully deprive the lessor of possession of the property; or

(iv) returns the property to the lessor at the end of the lease or rental term, plus agreed-upon extensions, but does not pay the lease or rental charges agreed upon in the written instrument, with intent to wrongfully deprive the lessor of the agreed-upon charges.

For the purposes of items (iii) and (iv), the value of the property must be at least \$100.

Evidence that a lessee used a false, fictitious, or not current name, address, or place of employment in obtaining the property or fails or refuses to return the property or pay the rental contract charges to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property knowing or having reason to know that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by:

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection; or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law 94-553, section 107; or

(13) except as provided in clauses (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio, or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(A) made or was aware of the connection; and

5.1 (B) was aware that the connection was unauthorized;

5.2 (15) with intent to defraud, diverts corporate property other than in accordance with
5.3 general business purposes or for purposes other than those specified in the corporation's
5.4 articles of incorporation; or

5.5 (16) with intent to defraud, authorizes or causes a corporation to make a distribution in
5.6 violation of section 302A.551, or any other state law in conformity with it; or

5.7 (17) takes or drives a motor vehicle without the consent of the owner or an authorized
5.8 agent of the owner, and who does so:

5.9 (i) knowing or having reason to know that the owner or an authorized agent of the owner
5.10 did not give consent; or

5.11 (ii) within ten years of a conviction for an offense under this section, section 256.98;
5.12 268.182; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631;
5.13 or 609.821, or a statute from another state, the United States, or a foreign jurisdiction, in
5.14 conformity with any of those sections, and the person received a felony or gross misdemeanor
5.15 sentence for the offense, or a sentence that was stayed under section 609.135 if the offense
5.16 to which a plea was entered would allow imposition of a felony or gross misdemeanor
5.17 sentence; or

5.18 (18) intentionally, and without claim of right, takes motor fuel from a retailer without
5.19 the retailer's consent and with intent to deprive the retailer permanently of possession of
5.20 the fuel by driving a motor vehicle from the premises of the retailer without having paid
5.21 for the fuel dispensed into the vehicle; or

5.22 (19) commits wage theft under subdivision 1, clause (13).

5.23 (b) Proof that the driver of a motor vehicle into which motor fuel was dispensed drove
5.24 the vehicle from the premises of the retailer without having paid for the fuel permits the
5.25 factfinder to infer that the driver acted intentionally and without claim of right, and that the
5.26 driver intended to deprive the retailer permanently of possession of the fuel. This paragraph
5.27 does not apply if: (1) payment has been made to the retailer within 30 days of the receipt
5.28 of notice of nonpayment under section 604.15; or (2) a written notice as described in section
5.29 604.15, subdivision 4, disputing the retailer's claim, has been sent. This paragraph does not
5.30 apply to the owner of a motor vehicle if the vehicle or the vehicle's license plate has been
5.31 reported stolen before the theft of the fuel.

5.32 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
5.33 committed on or after that date.

6.1 Sec. 2. Minnesota Statutes 2018, section 609.53, subdivision 1, is amended to read:

6.2 Subdivision 1. **Penalty.** (a) Except as otherwise provided in section 609.526 or paragraph
6.3 (b), any person who receives, possesses, transfers, buys or conceals any stolen property or
6.4 property obtained by robbery, knowing or having reason to know the property was stolen
6.5 or obtained by robbery, may be sentenced in accordance with the provisions of section
6.6 609.52, subdivision 3.

6.7 (b) Any person who receives, possesses, transfers, buys, or conceals any stolen property
6.8 or property obtained by robbery within ten years of a conviction for an offense under this
6.9 section, section 256.98; 268.182; 609.24; 609.245; 609.52; 609.582, subdivision 1, 2, or 3;
6.10 609.625; 609.63; 609.631; or 609.821, or a statute from another state, the United States, or
6.11 a foreign jurisdiction, in conformity with any of those sections, and the person received a
6.12 felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under
6.13 section 609.135 if the offense to which a plea was entered would allow imposition of a
6.14 felony or gross misdemeanor sentence may be sentenced in accordance with the provisions
6.15 of section 609.52, subdivision 3.

6.16 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
6.17 committed on or after that date.