

A bill for an act
relating to crimes; making it a felony to commit theft of a computer that
has identity information in its memory about the owner or any other person;
amending Minnesota Statutes 2006, section 609.52, subdivisions 2, 3.

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

Section 1. Minnesota Statutes 2006, section 609.52, subdivision 2, is amended to read:

Subd. 2. **Acts constituting theft.** Whoever does any of the following commits theft
and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains
possession of movable property of another without the other's consent and with intent to
deprive the owner permanently of possession of the property; or

(2) with or without having a legal interest in movable property, intentionally and
without consent, takes the property out of the possession of a pledgee or other person
having a superior right of possession, with intent thereby to deprive the pledgee or other
person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody, or title to property of
or performance of services by a third person by intentionally deceiving the third person
with a false representation which is known to be false, made with intent to defraud, and
which does defraud the person to whom it is made. "False representation" includes
without limitation:

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

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

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

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

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

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

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

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

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

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

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

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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 paragraphs (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:

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

(ii) was aware that the connection was unauthorized; or

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

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

(17) takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner, knowing or having reason to know that the owner or an authorized agent of the owner did not give consent; or

(18) intentionally and without claim of right, takes, transfers, conceals, or retains possession of any computer as defined in section 609.87, subdivision 3, that has identifying information, as defined in section 609.527, subdivision 1, paragraph (d), in its memory

5.1 about the owner or any other person, with intent to convert the identifying information
5.2 to the actor's own use or that of another.

5.3 **EFFECTIVE DATE.** This section is effective August 1, 2007, and applies to crimes
5.4 committed on or after that date.

5.5 Sec. 2. Minnesota Statutes 2006, section 609.52, subdivision 3, is amended to read:

5.6 Subd. 3. **Sentence.** Whoever commits theft may be sentenced as follows:

5.7 (1) to imprisonment for not more than 20 years or to payment of a fine of not more
5.8 than \$100,000, or both, if the property is a firearm, or the value of the property or services
5.9 stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause
5.10 (3), (4), (15), or (16); or

5.11 (2) to imprisonment for not more than ten years or to payment of a fine of not more
5.12 than \$20,000, or both, if the value of the property or services stolen exceeds \$2,500, or if
5.13 the property stolen was an article representing a trade secret, an explosive or incendiary
5.14 device, or a controlled substance listed in schedule I or II pursuant to section 152.02
5.15 with the exception of marijuana; or

5.16 (3) to imprisonment for not more than five years or to payment of a fine of not
5.17 more than \$10,000, or both, if:

5.18 (a) the value of the property or services stolen is more than \$500 but not more
5.19 than \$2,500; or

5.20 (b) the property stolen was a controlled substance listed in schedule III, IV, or V
5.21 pursuant to section 152.02; or

5.22 (c) the value of the property or services stolen is more than \$250 but not more
5.23 than \$500 and the person has been convicted within the preceding five years for an
5.24 offense under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582,
5.25 subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another
5.26 state, the United States, or a foreign jurisdiction, in conformity with any of those sections,
5.27 and the person received a felony or gross misdemeanor sentence for the offense, or a
5.28 sentence that was stayed under section 609.135 if the offense to which a plea was entered
5.29 would allow imposition of a felony or gross misdemeanor sentence; or

5.30 (d) the value of the property or services stolen is not more than \$500, and any of
5.31 the following circumstances exist:

5.32 (i) the property is taken from the person of another or from a corpse, or grave or
5.33 coffin containing a corpse; or

(ii) the property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

(iii) the property is taken from a burning, abandoned, or vacant building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

(iv) the property consists of public funds belonging to the state or to any political subdivision or agency thereof; or

(v) the property stolen is a motor vehicle; or

(vi) the conviction is for a violation of subdivision 2, clause (18); or

(4) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the property or services stolen is more than \$250 but not more than \$500; or

(5) in all other cases where the value of the property or services stolen is \$250 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3), (4), and (13), the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.