

CHAPTER 622

LARCENY

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622.01 LARCENY; WHAT CONSTITUTES. Every person who, with intent to deprive or defraud the true owner of his property, or of the use and benefit thereof, or to appropriate the same to the use of the taker, or of any other person:

(1) Shall take from the possession of the true owner, or of any other person, or obtain from such possession by color or aid of fraudulent or false representation or pretense, or of any false token or writing, or secrete, withhold, or appropriate to his own use, or that of any person other than the true owner, any money, personal property, thing in action, evidence of debt, or contract, or article of value of any kind;

(2) Having in his possession, custody, or control as a bailee, servant, attorney, agent, clerk, trustee, or officer of any person, association, or corporation, or as a public officer, or person authorized by agreement or by competent authority to hold or take such possession, custody, or control, any money, property, evidence of debt or contract, article of value of any nature, or thing in action or possession, shall appropriate the same to his own use, or that of any other person than the true owner or person entitled to the benefit thereof; or

(3) Having in his possession as storage, forwarding, or commission merchant, carrier, warehouseman, factor, or broker, or as the clerk, agent, or employee of any such storage, forwarding, or commission merchant, carrier, warehouseman, factor, or broker, with intent to defraud, shall sell or in any way dispose of, or apply or convert to his own use or the use of any other person, any bill of lading, custom-house permit, or warehouse receipt entrusted or consigned to him, or the proceeds or profits of the sale of any such property, or shall fraudulently fail to pay over any such proceeds after deducting charges or usual commission; and any consignor of any property or his agent, not being the absolute owner thereof, who, with intent to defraud, after delivery thereof for transportation on any wharf-boat, water craft, vehicle, or to any common carrier, shall in any way stop, command, or change the consignment thereof, or shall sell, dispose of, or encumber such property, during transit, after the delivery thereof, or shall in any way convert the same to his own use or the use of any other person than the true owner thereof or the person entitled to the benefit thereof; and every person or officer of any corporation who, having given a receipt for agricultural products, or any goods, wares, or merchandise, whether such receipt shall have been given to the owner of the property or issued as security on the same, shall sell, dispose of, encumber, or in any way convert the same or any part thereof to his own use, or to the use of any person other than the one entitled thereto or to the benefit thereof—

Steals such property, and shall be guilty of larceny.

[R. L. s. 5078] (10358)

622.02 COMMISSION NO DEFENSE. It shall be no defense to a prosecution under section 622.01, clause (2), that the accused was entitled to a commission, out of the money or property appropriated, as compensation for collecting or receiving the same for or on behalf of the owner thereof, or that the money or property

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appropriated was partly the property of another and partly the property of the party accused; but it shall not be larceny for any bailee, servant, attorney, agent, clerk, trustee, or any other person mentioned in section 622.01, clause (2), to retain his reasonable collection fee or charges.

[R. L. s. 5079] (10359)

622.03 OBTAINING MONEY BY FRAUDULENT DRAFT. Every person who shall wilfully, with intent to defraud by color or aid of a check, draft, or order for the payment of money or the delivery of property, when such person knows that the drawer or maker thereof is not entitled to draw on the drawee for the sum specified therein, or to order the payment of the amount or delivery of the property, although no express representation is made in reference thereto, shall obtain from another any money or property, shall be guilty of stealing the same, and punished accordingly.

[R. L. s. 5080] (10360)

622.04 GIVING CHECK WITHOUT FUNDS. Any person who, with intent to defraud, shall make or draw or utter or deliver any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time of such making, drawing, uttering, or delivery that the maker or drawer has not sufficient funds in or credit with such bank or other depository for the payment of such check, draft, or order in full upon its presentation, shall be guilty of a gross misdemeanor; and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned for not more than one year or both.

The making, drawing, uttering, or delivering of such check, draft, or order shall be *prima facie* evidence of intent to defraud and as against the maker or drawer of knowledge of insufficient funds in or credit with such bank or other depository; where such check, draft, or order has been protested for insufficient funds or no account, the notice of a protest thereof shall be admissible as proof against the maker or drawer of such presentation, non-payment, and protest, and shall be *prima facie* evidence that there was a lack of funds in or credit with such bank or other depository.

The word "credit," as used herein, shall be construed to mean an arrangement or understanding with the bank or depository for the payment of such check, draft, or order.

[1911 c. 272 s. 1; 1919 c. 94 s. 1; 1931 c. 243 s. 1] (10361)

622.05 GRAND LARCENY, FIRST DEGREE; HOW PUNISHED. Every person who shall steal, or unlawfully obtain or appropriate in any manner specified in this chapter:

(1) Property of any value by taking the same from the person of another in the night-time;

(2) Property of the value of more than \$25 by taking the same in the night-time from any dwelling house, office, bank, shop, warehouse, vessel, railway car, or any building of any kind or description; or

(3) Property of the value of more than \$500 in any manner whatsoever—

Shall be guilty of grand larceny in the first degree and punished by imprisonment in the state prison for not less than one year nor more than ten years.

[R. L. s. 5081] (10362)

622.06 GRAND LARCENY, SECOND DEGREE; PUNISHMENT. Every person who, under circumstances not amounting to grand larceny in the first degree, in any manner specified in this chapter, steals or unlawfully obtains or appropriates:

(1) Property of the value of more than \$100 but not exceeding \$500 in any manner;

(2) Property of any value by taking it from the person of another;

(3) Property of any value by taking it in the daytime from any dwelling house, office, bank, shop, warehouse, vessel, motor vehicle, railway car, or building;

(4) Property of less value than \$25 by taking it in the nighttime from any dwelling house, office, bank, shop, warehouse, vessel, motor vehicle, railway car, or building; or

(5) A record of a court or officer or a writing, instrument, or record kept, filed, or deposited according to law with or in keeping of any public officer;

Is guilty of grand larceny in the second degree and may be punished by imprisonment in the state prison for not more than five years, by imprisonment in the county jail for not more than one year, or by a fine of not more than \$500.

[R. L. s. 5082; 1951 c. 472 s. 1; 1955 c. 101 s. 1] (10363)

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622.07 PETIT LARCENY. Every larceny, except in the first and second degrees as described in this chapter, shall be petit larceny, and punished by imprisonment in the county jail for not more than three months or by a fine of not more than \$100.

[R. L. s. 5083] (10364)

622.08 MINIMUM PUNISHMENT FOR LARCENY OF FOWL. In any case of grand larceny in the second degree or petit larceny, when the property stolen, or any part thereof, shall consist of any domestic animal or fowl, the minimum punishment shall be 45 days' imprisonment in the county jail; but this shall not affect the maximum punishment for the offense.

[1929 c. 202] (10364-1)

622.09 APPLICATION TO UNISSUED INSTRUMENTS AND FIXTURES. Every provision of this chapter in reference to larceny shall apply to cases where the property taken is an instrument for the payment of money, an evidence of debt, a public security, a passage ticket completed and ready to be issued or delivered, although never in fact issued or delivered by the maker to a purchaser or owner; and to cases where the thing taken is a fixture, or part of the realty, or any growing tree, plant, or produce, and is severed at the time of taking, in the same manner as if the thing had been severed by another person at a previous time.

[R. L. s. 5084] (10365)

622.10 DOGS PERSONAL PROPERTY, WHEN. Dogs are hereby declared to be personal property within the meaning of Minnesota Statutes 1941, Part V.

[R. L. s. 5085] (10366)

622.11 LOST PROPERTY. Every person who shall find lost property under circumstances which give him knowledge or means of inquiry as to the true owner, who shall appropriate such property to his own use, or to the use of another person not entitled thereto, without having first made reasonable effort to find the owner and restore the property to him, shall be guilty of larceny.

[R. L. s. 5086] (10367)

622.12 BRINGING STOLEN GOODS INTO STATE OR ANOTHER COUNTY. Every person who, at any place out of the state, shall have stolen the property of another, or received such property knowing it to have been stolen, and shall bring the same into the state, may be tried and punished in the same manner as if such larceny or receiving had been committed within the state, and the offense may be charged to have been committed, and indictment found, and tried, in any county into or through which the stolen property shall have been brought; and every person who, at any place in the state, shall have taken the property of another, or received such property knowing it to have been stolen, and brought the same into any other county, shall be guilty of the larceny of the same in any county into or through which such stolen property shall have been brought, and may be indicted and tried in any such county.

[R. L. s. 5087] (10368)

622.13 CONVERSION BY TRUSTEE. Every person acting as executor, administrator, committee, guardian, receiver, collector, or trustee of any description, appointed by a deed, will, or other instrument, or by an order or judgment of a court or officer, who shall secrete, withhold, or otherwise appropriate to his own use, or that of any person other than the true owner or person entitled thereto, any money, goods, thing in action, security, evidence of debt or of property, or other valuable thing, or any proceeds thereof, in his possession or custody by virtue of his office, employment or appointment, shall be guilty of grand or petit larceny in such degree as in this chapter prescribed with reference to the value of such property.

[R. L. s. 5088] (10369)

622.14 VERBAL FALSE PRETENSE. A purchase of property by means of a false pretense is not criminal where the false pretense relates to the purchaser's means or ability to pay, unless such pretense shall be made in writing and signed by the party to be charged.

[R. L. s. 5089] (10370)

622.15 VALUE OF EVIDENCE OF DEBT, HOW ASCERTAINED. When the thing stolen is a written instrument, being an evidence of debt, other than a public or corporate certificate, scrip, bond, or security having a market value, or being the transfer of or evidence of title to any property, or of the creating, releasing,

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or discharging of any demand, right, or obligation, the amount of money due thereupon or secured to be paid thereby and remaining unsatisfied, or which in any contingency might be collected thereon or thereby, or the value of the property transferred or affected, or the title to which is shown thereby or the sum which might be recovered for the want thereof, as the case may be, shall be deemed the value of the thing stolen. If the thing stolen be a ticket, paper, or other writing entitling or purporting to entitle the holder or proprietor thereof to a passage upon a railway car, vessel, or other public conveyance, the price at which a ticket entitling a person to a like passage is usually sold shall be deemed its value. In every case not otherwise regulated by statute, the market value of the thing stolen shall be deemed its value.

[R. L. s. 5090] (10371)

622.16 CLAIM OF TITLE, WHEN GROUND OF DEFENSE. Upon an indictment for larceny it shall be a sufficient defense that the property was appropriated openly and avowedly, under a claim of title preferred in good faith, even though the claim be untenable. This shall not excuse the retention of the property of another to offset or pay demands held against him.

[R. L. s. 5091] (10372)

622.17 INTENT TO RESTORE PROPERTY. The fact that the defendant intended to restore the property stolen shall be no ground of defense, nor shall it be received in mitigation of punishment unless the property shall have been restored before complaint charging the commission of the crime has been made to a magistrate.

[R. L. s. 5092] (10373)

622.18 RECEIVING STOLEN PROPERTY; AVERMENT AND PROOF. Every person who shall buy or receive any stolen property, or any property which has been wrongfully appropriated in such manner as to constitute larceny under this chapter, knowing the same to have been stolen or so dealt with, or who corruptly, for any money, property, reward, promise, or agreement for the same, shall conceal, withhold, or aid in concealing or withholding, any property, knowing the same to have been stolen or appropriated wrongfully in such manner as to constitute larceny under the provisions of this chapter, if such misappropriation has been committed within the state, whether such property was so stolen or misappropriated within or without the state, shall be guilty of criminally receiving such property, and shall be punished by imprisonment in the state prison for not more than five years or in a county jail for not more than six months or by a fine of not more than \$250 or by both. In an indictment under this section it shall not be necessary to aver or prove upon trial that the principal who stole the property has been convicted or is amenable to justice.

[R. L. s. 5093] (10374)

622.19 LARCENY AT FIRES, HOW PUNISHED. Every person who shall commit larceny in a building that is on fire, or steal any property removed in consequence of an alarm caused by a fire, shall be punished, when the value of the property is more than \$100, by imprisonment in the state prison for not more than five years or by a fine of not more than \$500; when the value of the property is \$100 or less, by imprisonment in the county jail for not more than two years or by fine of not more than \$200.

[R. L. s. 5094] (10375)

622.20 RESTORATION OF STOLEN PROPERTY; DUTY OF OFFICERS. The officer arresting any person charged as principal or accessory in any robbery or larceny shall use reasonable diligence to secure the property alleged to have been stolen, and after seizure shall be answerable therefor while it remains in his hands, and shall annex a schedule thereof to his return of the warrant. When the county attorney shall require such property for use as evidence upon the examination or trial, such officer, upon his demand, shall deliver it to him and take his receipt therefor, after which such county attorney shall be responsible for the same. Upon conviction of the offender, whoever shall hold such property shall turn it over to the owner.

[R. L. s. 5095] (10376)

622.21 STEALING FROM CARS. Every person other than the owner or his agent, or one having charge of a railroad car for the purpose of loading the same, who takes from such car, while in transit, in the yards, or on any siding or track

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of any railroad in this state any grain or flax seed, or sweeps any such car, shall be guilty of a misdemeanor. On the trial it shall not be necessary to show that the defendant is not in the employ of the railroad company or acting under its authority while doing the act complained of, but the fact of the sweeping shall be *prima facie* evidence of the violation of this section.

[R. L. s. 5191] (10529)

622.22 STEALING OR PRINTING TRANSPORTATION TICKET, COUPON, OR PASS. If any person in the employ of a railroad or steamboat company shall fraudulently neglect to cancel, or to return to the proper officer or agent of such company, any ticket, coupon, or pass, with the intent to permit the same to be used in fraud of any railroad or steamboat company, or if any person shall steal or fraudulently stamp, print, sign, sell, or put in circulation any such ticket, coupon, or pass, he shall be guilty of a felony, and punished by imprisonment in the state prison for not more than five years.

[R. L. s. 5186] (10524)

622.26 DEFINITIONS. Subdivision 1. For the purposes of sections 622.26 and 622.27 the terms defined in this section have the meanings ascribed to them.

Subd. 2. "Merchant" means any person who owns or has in his possession or subject to his control personal property with authority to sell the same in the regular course of business at retail or wholesale.

Subd. 3. "Person" includes an individual, a partnership, corporation, or association.

[1957 c 805 s 1]

622.27 LARCENY IN BUSINESS ESTABLISHMENTS; DETENTION OF SUSPECTS. Subdivision 1. A merchant or merchant's employee who has reasonable cause for believing that a person has taken, or is in the act of taking, any article of value without paying therefor, from the possession of the merchant in his place of business or from any vehicle or premises under his control, with the intent wrongfully to deprive the merchant of his property or the use and benefit thereof or to appropriate the same to the use of the taker or any other person, may detain such person for the sole purpose of delivering him to a peace officer without unnecessary delay and then and there making a charge against such person to the peace officer. The person detained shall be informed promptly of the purpose of the detention and shall not be subjected to unnecessary or unreasonable force, nor to interrogation against his will.

Subd. 2. Upon a charge being made, a peace officer may, without a warrant, arrest any person, whom he has reasonable cause for believing has committed or attempted to commit the offense described in subdivision 1.

Subd. 3. No merchant, merchant's employee, or peace officer shall be criminally or civilly liable for false arrest or false imprisonment or wrongful detention under subdivision 1 or subdivision 2 if his action was based upon reasonable cause.

[1957 c 805 s 2]

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