

ASSEMBLY, No. 1761

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblyman TIM EUSTACE

District 38 (Bergen and Passaic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

SYNOPSIS

Creates fencing crime involving stolen domestic companion animals.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/8/2016)

A1761 EUSTACE, MUKHERJI

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1 AN ACT concerning fencing activities involving stolen domestic
2 companion animals and amending P.L.1981, c.167.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 7 of P.L.1981, c.167 (C.2C:20-7.1) is amended to
8 read as follows:

9 7. Fencing. a. Possession of altered property. Any dealer in
10 property who knew or should have known that the identifying
11 features such as serial numbers and permanently affixed labels of
12 property in his possession have been removed or altered without the
13 consent of the manufacturer is guilty of possession of altered
14 property. It is a defense to a prosecution under this subsection that
15 a person lawfully possesses the usual indicia of ownership in
16 addition to mere possession.

17 b. (1) Dealing in stolen property. A person is guilty of dealing
18 in stolen property if he traffics in, or initiates, organizes, plans,
19 finances, directs, manages or supervises trafficking in stolen
20 property. This paragraph shall not apply to dealing in stolen
21 property consisting of a domestic companion animal, addressed in
22 paragraph (2) of this subsection.

23 (2) Dealing in stolen domestic companion animals. A person is
24 guilty of dealing in stolen domestic companion animals if he traffics
25 in, or initiates, organizes, plans, finances, directs, manages or
26 supervises trafficking in stolen property consisting of a domestic
27 companion animal.

28 c. **【The】** (1) For any violation of this section, other than
29 dealing in stolen domestic companion animals, the value of the
30 property involved in the violation 【of this section】 shall be
31 determined by the trier of fact 【. The】 for the purpose of
32 determining the grade of the offense, and the value of the property
33 involved in the violation 【of this section】 may be aggregated in
34 determining the grade of the offense where the acts or conduct
35 constituting a violation were committed pursuant to one scheme or
36 course of conduct, whether from the same person or several
37 persons.

38 (2) A violation of this section for dealing in stolen domestic
39 companion animals constitutes a crime of the third degree.

40 d. It is an affirmative defense to a prosecution under this
41 section that the actor:

42 (1) Was unaware that the property or service was that of
43 another;

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (2) Acted under an honest claim of right to the property or
2 service involved or that he had a right to acquire or dispose of it as
3 he did.

4 e. In addition to the presumptions contained in [N.J.S. 2C:20-
5 7b.] subsection b. of N.J.S.2C:20-7, the following presumptions are
6 available in the prosecution for a fencing offense:

7 (1) Proof of the purchase or sale of property at a price
8 substantially below its fair market value, unless satisfactorily
9 explained, gives rise to an inference that the person buying or
10 selling the property knew that it had been stolen;

11 (2) Proof of the purchase or sale of property by a dealer in that
12 property, out of the regular course of business, or without the usual
13 indicia of ownership other than mere possession, or the property or
14 the job lot of which it is a part was bought, received, possessed or
15 controlled in broken succession of title, so that it cannot be traced,
16 by appropriate documents, in unbroken succession to the
17 manufacturer, in all cases where the regular course of business
18 reasonably indicates records of purchase, transfer or sale, unless
19 satisfactorily explained, gives rise to an inference that the person
20 buying or selling the property knew that it had been stolen; and

21 (3) Proof that a person buying or selling property of the sort
22 received obtained such property without having ascertained by
23 reasonable inquiry that the person from whom he obtained it had a
24 legal right to possess or control it gives rise to an inference that
25 such person knew that it had been stolen.

26 (cf: P.L.1981, c.167, s.7)

27
28 2. This act shall take effect immediately.

29
30 STATEMENT

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32 This bill would create a specific crime for fencing involving a
33 stolen domestic companion animal. A person would be guilty of
34 such an act, referred to in the bill as “dealing in stolen domestic
35 companion animals,” if the person “traffics in, or initiates,
36 organizes, plans, finances, directs, manages or supervises
37 trafficking in stolen property consisting of a domestic companion
38 animal.”

39 Unlike the existing crime of dealing in stolen property, graded
40 anywhere from a disorderly persons offense up to a second degree
41 crime based upon the value of the property involved, fencing
42 involving a stolen domestic companion animal would be graded as a
43 crime of the third degree. This grading of the new fencing crime
44 corresponds to the third degree grading of theft of a domestic
45 companion animal as currently established under the law. See
46 N.J.S.2C:20-2, subsection b. Punishment for a third degree crime
47 could include a term of imprisonment of three to five years, a fine
48 of up to \$15,000, or both.