

[First Reprint]
ASSEMBLY, No. 769

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman BUONO

1 AN ACT concerning certain thefts and amending N.J.S.2C:20-2.

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

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6 1. N.J.S.2C:20-2 is amended to read as follows:

7 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions
8 Applicable to Theft Generally. a. Consolidation of Theft Offenses.
9 Conduct denominated theft in this chapter constitutes a single offense,
10 but each episode or transaction may be the subject of a separate
11 prosecution and conviction. A charge of theft may be supported by
12 evidence that it was committed in any manner that would be theft
13 under this chapter, notwithstanding the specification of a different
14 manner in the indictment or accusation, subject only to the power of
15 the court to ensure fair trial by granting a bill of particulars, discovery,
16 a continuance, or other appropriate relief where the conduct of the
17 defense would be prejudiced by lack of fair notice or by surprise.

18 b. Grading of theft offenses.

19 (1) Theft constitutes a crime of the second degree if:

20 (a) The amount involved is \$75,000.00 or more;

21 (b) The property is taken by extortion;

22 (c) The property stolen is a controlled dangerous substance or
23 controlled substance analog as defined in N.J.S.2C:35-2 and the
24 quantity is in excess of one kilogram; or

25 (d) The property stolen is a person's benefits under federal or State
26 law, or from any other source, which the Department of Human
27 Services or an agency acting on its behalf has budgeted for the
28 person's health care and the amount involved is \$75,000 or more.

29 (2) Theft constitutes a crime of the third degree if:

30 (a) The amount involved exceeds \$500.00 but is less than

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAW committee amendments adopted November 7, 1996.

1 \$75,000.00;

2 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
3 horse or airplane;

4 (c) The property stolen is a controlled dangerous substance or
5 controlled substance analog as defined in N.J.S.2C:35-2 and the
6 amount involved is less than \$75,000.00 or is undetermined and the
7 quantity is one kilogram or less;

8 (d) It is from the person of the victim;

9 (e) It is in breach of an obligation by a person in his capacity as a
10 fiduciary;

11 (f) It is by threat not amounting to extortion;

12 (g) It is of a public record, writing or instrument kept, filed or
13 deposited according to law with or in the keeping of any public office
14 or public servant; [or]

15 (h) The property stolen is a person's benefits under federal or State
16 law, or from any other source, which the Department of Human
17 Services or an agency acting on its behalf has budgeted for the
18 person's health care and the amount involved is less than \$75,000; or

19 (i) The property stolen is any real or personal property related to,
20 necessary for, or derived from research, regardless of value, including,
21 but not limited to, any sample, specimens and components thereof,
22 research subject, including any warm-blooded or cold-blooded animals
23 being used for research or intended for use in research, supplies,
24 records, data or test results, prototypes or equipment, as well as any
25 proprietary information or other type of information related to
26 research.

27 (3) Theft constitutes a crime of the fourth degree if:

28 (a.) the amount involved is at least \$200.00 but does not exceed
29 \$500.00; or

30 (b.) the property stolen ¹[is] are ¹designated recyclable ¹[material]
31 materials¹ as defined in section ¹[7] ² of P.L.1987, c.102
32 (C.13:1E-99.12), either bundled or in a recycling receptacle, which
33 ¹[has] have¹ been placed for collection in the manner provided by the
34 municipal recycling ordinance adopted pursuant to section 6 of
35 P.L.1987, c.102 ¹[(C.13:1E-99.17)] (C.13:1E-99.16)¹.

36 (4) If the amount involved was less than \$200.00 the offense
37 constitutes a disorderly persons offense.

38 [(4)](5) The amount involved in a theft shall be determined by the
39 trier of fact. The amount shall include, but shall not be limited to, the
40 amount of any State tax avoided, evaded or otherwise unpaid,
41 improperly retained or disposed of. Amounts involved in thefts
42 committed pursuant to one scheme or course of conduct, whether
43 from the same person or several persons, may be aggregated in
44 determining the grade of the offense.

45 c. Claim of right. It is an affirmative defense to prosecution for
46 theft that the actor:

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

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

4 (3) Took property exposed for sale, intending to purchase and pay
5 for it promptly, or reasonably believing that the owner, if present,
6 would have consented.

7 d. Theft from spouse. It is no defense that theft was from the
8 actor's spouse, except that misappropriation of household and personal
9 effects, or other property normally accessible to both spouses, is theft
10 only if it occurs after the parties have ceased living together.

11 (cf: P.L.1995, c.20, s.5)

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13 2. This act shall take effect immediately.

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Makes it a crime of the fourth degree to scavenge recyclable materials.