

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2252

STATE OF NEW JERSEY

ADOPTED FEBRUARY 10, 1997

Sponsored by Assemblyman GEIST and Assemblywoman
ALLEN

1 AN ACT concerning the theft of animals, amending N.J.S.2C:20-1 and
2 N.J.S.2C:20-2, and supplementing Title 2C of the New Jersey
3 Statutes.

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

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

9 2C:20-1. Definitions. In chapters 20 and 21, unless a different
10 meaning plainly is required:

11 a. "Deprive" means: (1) to withhold or cause to be withheld
12 property of another permanently or for so extended a period as to
13 appropriate a substantial portion of its economic value, or with
14 purpose to restore only upon payment of reward or other
15 compensation; or (2) to dispose or cause disposal of the property so
16 as to make it unlikely that the owner will recover it.

17 b. "Fiduciary" means an executor, general administrator of an
18 intestate, administrator with the will annexed, substituted
19 administrator, guardian, substituted guardian, trustee under any trust,
20 express, implied, resulting or constructive, substituted trustee,
21 executor, conservator, curator, receiver, trustee in bankruptcy,
22 assignee for the benefit of creditors, partner, agent or officer of a
23 corporation, public or private, temporary administrator, administrator,
24 administrator pendente lite, administrator ad prosequendum,
25 administrator ad litem or other person acting in a similar capacity.

26 c. "Financial institution" means a bank, insurance company, credit
27 union, savings and loan association, investment trust or other
28 organization held out to the public as a place of deposit of funds or
29 medium of savings or collective investment.

30 d. "Government" means the United States, any state, county,
31 municipality, or other political unit, or any department, agency or

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 subdivision of any of the foregoing, or any corporation or other
2 association carrying out the functions of government.

3 e. "Movable property" means property the location of which can
4 be changed, including things growing on, affixed to, or found in land,
5 and documents, although the rights represented thereby have no
6 physical location. "Immovable property" is all other property.

7 f. "Obtain" means: (1) in relation to property, to bring about a
8 transfer or purported transfer of a legal interest in the property,
9 whether to the obtainer or another; or (2) in relation to labor or
10 service, to secure performance thereof.

11 g. "Property" means anything of value, including real estate,
12 tangible and intangible personal property, trade secrets, contract
13 rights, choses in action and other interests in or claims to wealth,
14 admission or transportation tickets, captured or domestic animals,
15 food and drink, electric, gas, steam or other power, financial
16 instruments, information, data, and computer software, in either
17 human readable or computer readable form, copies or originals.

18 h. "Property of another" includes property in which any person
19 other than the actor has an interest which the actor is not privileged to
20 infringe, regardless of the fact that the actor also has an interest in the
21 property and regardless of the fact that the other person might be
22 precluded from civil recovery because the property was used in an
23 unlawful transaction or was subject to forfeiture as contraband.
24 Property in possession of the actor shall not be deemed property of
25 another who has only a security interest therein, even if legal title is in
26 the creditor pursuant to a conditional sales contract or other security
27 agreement.

28 i. "Trade secret" means the whole or any portion or phase of any
29 scientific or technical information, design, process, procedure, formula
30 or improvement which is secret and of value. A trade secret shall be
31 presumed to be secret when the owner thereof takes measures to
32 prevent it from becoming available to persons other than those
33 selected by the owner to have access thereto for limited purposes.

34 j. "Dealer in property" means a person who buys and sells
35 property as a business.

36 k. "Traffic" means:

37 (1) To sell, transfer, distribute, dispense or otherwise dispose of
38 property to another person; or

39 (2) To buy, receive, possess, or obtain control of or use property,
40 with intent to sell, transfer, distribute, dispense or otherwise dispose
41 of such property to another person.

42 l. "Broken succession of title" means lack of regular documents
43 of purchase and transfer by any seller except the manufacturer of the
44 subject property, or possession of documents of purchase and transfer
45 by any buyer without corresponding documents of sale and transfer in
46 possession of seller, or possession of documents of sale and transfer

1 by seller without corresponding documents of purchase and transfer
2 in possession of any buyer.

3 m. "Person" includes any individual or entity or enterprise, as
4 defined herein, holding or capable of holding a legal or beneficial
5 interest in property.

6 n. "Anything of value" means any direct or indirect gain or
7 advantage to any person.

8 o. "Interest in property which has been stolen" means title or right
9 of possession to such property.

10 p. "Stolen property" means property that has been the subject of
11 any unlawful taking.

12 q. "Enterprise" includes any individual, sole proprietorship,
13 partnership, corporation, business trust, association, or other legal
14 entity, and any union or group of individuals associated in fact,
15 although not a legal entity, and it includes illicit as well as licit
16 enterprises and governmental as well as other entities.

17 r. "Attorney General" includes the Attorney General of New
18 Jersey, his assistants and deputies. The term shall also include a
19 county prosecutor or his designated assistant prosecutor, if a county
20 prosecutor is expressly authorized in writing by the Attorney General
21 to carry out the powers conferred on the Attorney General by this
22 chapter.

23 s. "Access device" means property consisting of any telephone
24 calling card number, credit card number, account number, mobile
25 identification number, electronic serial number, personal identification
26 number, or any other data intended to control or limit access to
27 telecommunications or other computer networks in either human
28 readable or computer readable form, either copy or original, that can
29 be used to obtain telephone service.

30 t. "Defaced access device" means any access device, in either
31 human readable or computer readable form, either copy or original,
32 which has been removed, erased, defaced, altered, destroyed, covered
33 or otherwise changed in any manner from its original configuration.

34 u. "Domestic companion animal" means any animal commonly
35 referred to as a pet or one that has been bought, bred, raised or
36 otherwise acquired, in accordance with local ordinances and State and
37 federal law for the primary purpose of providing companionship to the
38 owner, rather than for business or agricultural purposes.

39 (cf: P.L.1997, c.6, s.1)

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

42 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions
43 Applicable to Theft Generally. a. Consolidation of Theft Offenses.
44 Conduct denominated theft in this chapter constitutes a single offense,
45 but each episode or transaction may be the subject of a separate
46 prosecution and conviction. A charge of theft may be supported by

1 evidence that it was committed in any manner that would be theft
2 under this chapter, notwithstanding the specification of a different
3 manner in the indictment or accusation, subject only to the power of
4 the court to ensure fair trial by granting a bill of particulars, discovery,
5 a continuance, or other appropriate relief where the conduct of the
6 defense would be prejudiced by lack of fair notice or by surprise.

7 b. Grading of theft offenses.

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

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

10 (b) The property is taken by extortion;

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

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

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

19 (a) The amount involved exceeds \$500.00 but is less than
20 \$75,000.00;

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

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

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

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

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

31 (g) It is of a public record, writing or instrument kept, filed or
32 deposited according to law with or in the keeping of any public office
33 or public servant;

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

38 (i) The property stolen is any real or personal property related to,
39 necessary for, or derived from research, regardless of value, including,
40 but not limited to, any sample, specimens and components thereof,
41 research subject, including any warm-blooded or cold-blooded animals
42 being used for research or intended for use in research, supplies,
43 records, data or test results, prototypes or equipment, as well as any
44 proprietary information or other type of information related to
45 research;

46 (j) The property stolen is a New Jersey Prescription Blank as

1 referred to in R.S.45:14-14; or

2 (k) The property stolen consists of an access device or a defaced
3 access device.

4 (3) Theft constitutes a crime of the fourth degree if the amount
5 involved is at least \$200.00 but does not exceed \$500.00 or the
6 property stolen is a domestic companion animal . If the amount
7 involved was less than \$200.00 the offense constitutes a disorderly
8 persons offense.

9 (4) The amount involved in a theft shall be determined by the trier
10 of fact. The amount shall include, but shall not be limited to, the
11 amount of any State tax avoided, evaded or otherwise unpaid,
12 improperly retained or disposed of. Amounts involved in thefts
13 committed pursuant to one scheme or course of conduct, whether
14 from the same person or several persons, may be aggregated in
15 determining the grade of the offense.

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

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

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

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

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

28 (cf: P.L.1997, c.6, s.2)

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30 3. (New section) Any person who unlawfully takes a domestic
31 companion animal with the intent to sell is guilty of a crime of the third
32 degree.

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34 4. This act shall take effect immediately.

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39 Provides theft of domestic companion animal to be a fourth degree
40 crime, and theft with intent to sell a third degree crime.