

SENATE, No. 2127

STATE OF NEW JERSEY

INTRODUCED JUNE 5, 1997

By Senators BASSANO and CARDINALE

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

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

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

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

19 b. Grading of theft offenses.

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

21 (a) The amount involved is [~~\$75,000.00~~] \$25,000 or more;

22 (b) The property is taken by extortion;

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 quantity is in excess of one kilogram; or

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

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

31 (a) The amount involved exceeds \$500.00 but is less than
32 [~~\$75,000.00~~] \$25,000;

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

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.

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

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

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

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

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

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

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

24 (j) The property stolen is a New Jersey Prescription Blank as
25 referred to in R.S.45:14-14; or

26 (k) The property stolen consists of an access device or a defaced
27 access device.

28 (3) Theft constitutes a crime of the fourth degree if the amount
29 involved is at least \$200.00 but does not exceed \$500.00. If the
30 amount involved was less than \$200.00 the offense constitutes a
31 disorderly persons offense.

32 (4) The amount involved in a theft shall be determined by the trier
33 of fact. The amount shall include, but shall not be limited to, the
34 amount of any State tax avoided, evaded or otherwise unpaid,
35 improperly retained or disposed of. Amounts involved in thefts
36 committed pursuant to one scheme or course of conduct, whether
37 from the same person or several persons, may be aggregated in
38 determining the grade of the offense.

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

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

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

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

1 d. Theft from spouse. It is no defense that theft was from the
2 actor's spouse, except that misappropriation of household and personal
3 effects, or other property normally accessible to both spouses, is theft
4 only if it occurs after the parties have ceased living together.
5 (cf: P.L.1997, c.6, s.2)

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7 2. This act shall take effect immediately and apply to all offenses
8 occurring on or after the effective date.

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STATEMENT

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13 This bill increases the penalty for certain thefts. This bill provides
14 that it is a crime of the second degree if the amount involved in a theft
15 is \$25,000 or more, instead of the current \$75,000 or more. In
16 addition, the bill provides that it is a crime of the third degree if the
17 amount of the theft exceeds \$500 but is less than \$25,000.

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22 Provides that theft of \$25,000 or more is a crime of the second degree.