

## CHAPTER 309

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**CRIMINAL LAW AND PROCEDURE**

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## SENATE BILL 23-097

BY SENATOR(S) Zenzinger and Gardner, Kirkmeyer, Lundeen, Pelton B., Pelton R., Rich, Bridges, Ginal, Hansen, Hinrichsen, Marchman, Mullica, Priola, Roberts, Smallwood, Van Winkle, Will;  
also REPRESENTATIVE(S) Bird and Soper, Armagost, Bradley, DeGraaf, Duran, Evans, Frizell, Lukens, Lynch, Marshall, Snyder, McCluskie.

## AN ACT

CONCERNING THE ADOPTION OF THE 2023 RECOMMENDATIONS OF THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE REGARDING MOTOR VEHICLE OFFENSES COMMITTED BY A PERSON WHO IS NOT THE OWNER OF THE MOTOR VEHICLE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 18-4-409, **amend** (1)(a), (2), (3), and (4); and **add** (6) and (7) as follows:

**18-4-409. Motor vehicle theft - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Motor vehicle" means ~~all vehicles of whatever description propelled by any power other than muscular, except vehicles running on rails~~ ANY SELF-PROPELLED VEHICLE THAT IS DESIGNED PRIMARILY FOR TRAVEL ON PUBLIC HIGHWAYS AND THAT IS GENERALLY AND COMMONLY USED TO TRANSPORT PERSONS AND PROPERTY OVER THE PUBLIC HIGHWAYS.

(2) A person commits ~~aggravated~~ motor vehicle theft in the first degree if ~~he or she~~ THE PERSON knowingly obtains, ~~or~~ exercises control over, RECEIVES, OR RETAINS the motor vehicle of another PERSON; AND THE PERSON KNOWS OR REASONABLY SHOULD HAVE KNOWN THAT THE ACT WAS ~~without authorization or was by threat or deception;~~ and THE PERSON HAS TWO PRIOR CONVICTIONS OR ADJUDICATIONS OF CHARGES SEPARATELY BROUGHT AND TRIED FOR AN OFFENSE INVOLVING MOTOR VEHICLE THEFT OR UNAUTHORIZED USE OF A MOTOR VEHICLE IN

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

THIS STATE, A MUNICIPALITY, ANOTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

~~(a) Retains possession or control of the motor vehicle for more than twenty-four hours; or~~

~~(b) Attempts to alter or disguise or alters or disguises the appearance of the motor vehicle; or~~

~~(c) Attempts to alter or remove or alters or removes the vehicle identification number; or~~

~~(d) Uses the motor vehicle in the commission of a crime other than a traffic offense; or~~

~~(e) Causes five hundred dollars or more property damage, including but not limited to property damage to the motor vehicle involved, in the course of obtaining control over or in the exercise of control of the motor vehicle; or~~

~~(f) Causes bodily injury to another person while he or she is in the exercise of control of the motor vehicle; or~~

~~(g) Removes the motor vehicle from this state for a period of time in excess of twelve hours; or~~

~~(h) Unlawfully attaches or otherwise displays in or upon the motor vehicle license plates other than those officially issued for the motor vehicle.~~

~~(3) Aggravated motor vehicle theft in the first degree is a~~ A PERSON COMMITS MOTOR VEHICLE THEFT IN THE SECOND DEGREE IF THE PERSON KNOWINGLY OBTAINS, EXERCISES CONTROL OVER, RECEIVES, OR RETAINS THE MOTOR VEHICLE OF ANOTHER PERSON; AND THE PERSON KNOWS OR SHOULD REASONABLY HAVE KNOWN THAT THE ACT WAS WITHOUT AUTHORIZATION OR WAS BY THREAT OR DECEPTION; AND:

~~(a) Class 5 felony if the value of the motor vehicle or motor vehicles involved is less than twenty thousand dollars~~ THE PERSON RETAINS POSSESSION OR CONTROL OF THE MOTOR VEHICLE FOR MORE THAN TWENTY-FOUR HOURS;

~~(a.5) Class 4 felony if the value of the motor vehicle or motor vehicles involved is twenty thousand dollars or more but less than one hundred thousand dollars;~~

~~(b) Class 3 felony if the value of the motor vehicle or motor vehicles involved is more than one hundred thousand dollars or if the defendant has twice previously been convicted or adjudicated of charges separately brought and tried either in this state or elsewhere of an offense involving theft of a motor vehicle under the laws of this state, any other state, the United States, or any territory subject to the jurisdiction of the United States~~ THE PERSON ATTEMPTS TO ALTER OR DISGUISE OR ALTERS OR DISGUISES THE APPEARANCE OF THE MOTOR VEHICLE;

~~(c) THE PERSON ATTEMPTS TO ALTER OR REMOVE OR ALTERS OR REMOVES THE VEHICLE IDENTIFICATION NUMBER;~~

(d) THE PERSON REMOVES THE MOTOR VEHICLE FROM THIS STATE;

(e) THE PERSON UNLAWFULLY ATTACHES OR DISPLAYS A LICENSE PLATE IN OR UPON THE MOTOR VEHICLE OTHER THAN THOSE PLATES OFFICIALLY ISSUED FOR THE MOTOR VEHICLE;

(f) THE PERSON OR A PARTICIPANT CAUSES ONE THOUSAND DOLLARS OR MORE PROPERTY DAMAGE, INCLUDING PROPERTY DAMAGE TO THE MOTOR VEHICLE INVOLVED, IN THE COURSE OF OBTAINING CONTROL OVER, IN THE EXERCISE OF CONTROL OF, IN THE COURSE OF RECEIVING, OR IN THE COURSE OF RETAINING THE MOTOR VEHICLE;

(g) THE PERSON CAUSES BODILY INJURY TO ANOTHER PERSON OTHER THAN TO A PARTICIPANT WHILE IN THE EXERCISE OF CONTROL OF THE MOTOR VEHICLE;

(h) THE PERSON USES OR ATTEMPTS TO USE THE MOTOR VEHICLE IN THE COMMISSION OF A CRIME OTHER THAN:

(I) A TRAFFIC OFFENSE EXCEPT ELUDING A POLICE OFFICER AS DESCRIBED IN SECTION 42-4-1413; OR

(II) A FIRST OR SECOND DEGREE CRIMINAL TRESPASS OF THE MOTOR VEHICLE; OR

(i) AT THE TIME OF THE ACT, THE MOTOR VEHICLE DISPLAYED A LICENSE PLATE OR PLACARD INDICATING THE MOTOR VEHICLE BELONGS TO A PERSON WITH A DISABILITY.

~~(4) A person commits aggravated motor vehicle theft in the second degree if he or she knowingly obtains or exercises control over the motor vehicle of another without authorization or by threat or deception and if none of the aggravating factors in subsection (2) of this section are present. Aggravated motor vehicle theft in the second degree is a~~ A PERSON COMMITS MOTOR VEHICLE THEFT IN THE THIRD DEGREE IF THE PERSON KNOWINGLY:

~~(a) Class 5 felony if the value of the motor vehicle or motor vehicles involved is twenty thousand dollars or more~~ OBTAINS OR EXERCISES CONTROL OVER the motor vehicle of another PERSON; AND THE PERSON KNOWS OR SHOULD REASONABLY HAVE KNOWN THAT THE ACT WAS WITHOUT AUTHORIZATION OR WAS BY THREAT OR DECEPTION; OR

~~(b) Class 6 felony if the value of the motor vehicle or motor vehicles involved is two thousand dollars or more but less than twenty thousand dollars~~ RECEIVES OR RETAINS THE MOTOR VEHICLE FROM ANOTHER PERSON WHO IS NOT THE OWNER OF THE MOTOR VEHICLE; THE PERSON EXERCISES CONTROL OVER THE MOTOR VEHICLE; AND THE PERSON KNOWS OR SHOULD REASONABLY HAVE KNOWN THAT THE ACT WAS WITHOUT AUTHORIZATION OF THE OWNER.

~~(c) Class 1 misdemeanor if the value of the motor vehicle or motor vehicles involved is less than two thousand dollars.~~

(6) (a) MOTOR VEHICLE THEFT IN THE FIRST DEGREE IS A CLASS 3 FELONY.

(b) MOTOR VEHICLE THEFT IN THE SECOND DEGREE IS A CLASS 4 FELONY.

(c) MOTOR VEHICLE THEFT IN THE THIRD DEGREE IS A CLASS 5 FELONY.

(7) A PERSON WHOSE CONDUCT IS LIMITED TO THE ELEMENTS OF THIS SECTION IS NOT SUBJECT TO PROSECUTION PURSUANT TO SECTION 18-4-401.

**SECTION 2.** In Colorado Revised Statutes, **add** 18-4-409.5 as follows:

**18-4-409.5. Unauthorized use of a motor vehicle - definition.** (1) A PERSON COMMITS UNAUTHORIZED USE OF A MOTOR VEHICLE IF THE PERSON OBTAINS OR EXERCISES CONTROL OVER THE MOTOR VEHICLE OF ANOTHER PERSON WITHOUT AUTHORIZATION OF THE OWNER AND:

(a) THE PERSON DOES NOT COMMIT A CRIMINAL OFFENSE OTHER THAN A MISDEMEANOR TRAFFIC OFFENSE EXCEPT ELUDING A POLICE OFFICER AS DESCRIBED IN SECTION 42-4-1413 IN THE COURSE OF OBTAINING CONTROL OVER OR IN THE EXERCISE OF CONTROL OF A MOTOR VEHICLE; AND

(b) THE MOTOR VEHICLE IS RETURNED TO THE OWNER OR RECOVERED BY LAW ENFORCEMENT WITHIN TWENTY-FOUR HOURS AFTER BEING REPORTED AS MISSING OR STOLEN BY THE OWNER, WITH NO DAMAGE TO THE MOTOR VEHICLE.

(2) UNAUTHORIZED USE OF A MOTOR VEHICLE IS A CLASS 1 MISDEMEANOR; EXCEPT THAT A SECOND OR SUBSEQUENT OFFENSE FOR A VIOLATION OF THIS SECTION IS A CLASS 5 FELONY.

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "MOTOR VEHICLE" HAS THE SAME MEANING AS DEFINED IN SECTION 18-4-409.

**SECTION 3.** In Colorado Revised Statutes, 18-17-103, **amend** (5)(b)(II) as follows:

**18-17-103. Definitions.** As used in this article 17, unless the context otherwise requires:

(5) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(b) Any violation of the following provisions of the Colorado statutes or any criminal act committed in any jurisdiction of the United States which, if committed in this state, would be a crime under the following provisions of the Colorado statutes:

(II) Offenses against property, as defined in sections 18-4-102 (first degree arson), 18-4-103 (second degree arson), 18-4-104 (third degree arson), 18-4-105 (fourth degree arson), 18-4-202 (first degree burglary), 18-4-203 (second degree burglary), 18-4-301 (robbery), 18-4-302 (aggravated robbery), 18-4-303 (aggravated robbery of controlled substances), 18-4-401 (theft), 18-4-409 (aggravated (motor vehicle theft), 18-4-409.5 (UNAUTHORIZED USE OF A MOTOR VEHICLE), and 18-4-501 (criminal mischief);

**SECTION 4.** In Colorado Revised Statutes, 19-1-304, **amend** (5.5) as follows:

**19-1-304. Juvenile delinquency records - division of youth services critical incident information - definitions.** (5.5) Whenever a petition is filed in juvenile court alleging a class 1, class 2, class 3, or class 4 felony; a level 1, level 2, or level 3 drug felony; an offense involving unlawful sexual behavior as defined in section 16-22-102 (~~9~~); a crime of violence as described in section 18-1.3-406; a burglary offense as described in part 2 of article 4 of title 18; felony menacing, in violation of section 18-3-206; harassment, in violation of section 18-9-111; fourth degree arson, in violation of section 18-4-105; ~~aggravated~~ motor vehicle theft, in violation of section 18-4-409; hazing, in violation of section 18-9-124; or possession of a handgun by a juvenile, in violation of section 18-12-108.5, or when a petition is filed in juvenile court in which the alleged victim of the crime is a student or staff person in the same school as the juvenile or in which it is alleged that the juvenile possessed a deadly weapon during the commission of the alleged crime, the prosecuting attorney, within three working days after the petition is filed, shall make good faith reasonable efforts to notify the principal of the school in which the juvenile is enrolled and shall provide such principal with the arrest and criminal records information, as defined in section 24-72-302. (~~+~~). In the event the prosecuting attorney, in good faith, is not able to either identify the school that the juvenile attends or contact the principal of the juvenile's school, then the prosecuting attorney shall contact the superintendent of the juvenile's school district.

**SECTION 5.** In Colorado Revised Statutes, 42-2-202, **amend** (2)(a)(V) as follows:

**42-2-202. Habitual offenders - frequency and type of violations.** (2) (a) An habitual offender is a person having three or more convictions of any of the following separate and distinct offenses arising out of separate acts committed within a period of seven years:

(V) Vehicular assault or vehicular homicide, or manslaughter or criminally negligent homicide which results from the operation of a motor vehicle, or ~~aggravated~~ motor vehicle theft, as such offenses are described in title 18; ~~C.R.S.;~~

**SECTION 6. Appropriation.** For the 2023-24 state fiscal year, \$24,409 is appropriated to the department of revenue for use by the division of motor vehicles. This appropriation is from the Colorado DRIVES vehicle services account in the highway users tax fund created in section 42-1-211 (2), C.R.S. To implement this act, the division may use this appropriation for DRIVES maintenance and support.

**SECTION 7. Effective date - applicability.** This act takes effect July 1, 2023, and applies to offenses committed on or after July 1, 2023.

**SECTION 8. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 2, 2023