

CHAPTER 147

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 04-1057

BY REPRESENTATIVE(S) Miller, Coleman, McFadyen, Merrifield, Paccione, Ragsdale, Romanoff, Salazar, Weddig, Williams S., Borodkin, Frangas, and Garcia;
also SENATOR(S) Taylor, Andrews, Arnold, Chlouber, Entz, and Isgar.

AN ACT**CONCERNING NEWSPAPER THEFT.**

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

SECTION 1. Legislative intent. (1) The general assembly hereby finds and declares that:

(a) The freedom of the press is a crucial part of our democratic society as reflected in the First Amendment of United States Constitution;

(b) An attempt to chill the press' important constitutional role by stealing newspapers is a serious affront to the First Amendment;

(c) In order to protect the freedom of the press as expressed in the First Amendment of the United States Constitution, there must be criminal sanctions for newspaper theft.

(2) Therefore, although a district attorney can prosecute the theft of a compensatory newspaper, it is the intent of the general assembly to provide a criminal penalty in the case of the theft of a complimentary newspaper.

SECTION 2. Part 4 of article 4 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-4-419. Newspaper theft. (1) A PERSON COMMITS THE OFFENSE OF NEWSPAPER THEFT WHEN THAT PERSON OBTAINS OR EXERTS UNAUTHORIZED CONTROL OVER MORE THAN FIVE COPIES OF AN EDITION OF A NEWSPAPER FROM A NEWSPAPER DISTRIBUTION CONTAINER OWNED OR LEASED BY THE NEWSPAPER PUBLISHER WITH

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

THE INTENT TO PREVENT OTHER INDIVIDUALS FROM READING THAT EDITION OF THE NEWSPAPER. CONTROL IS UNAUTHORIZED IF THERE IS A NOTICE ON THE NEWSPAPER OR ON THE NEWSPAPER DISTRIBUTION CONTAINER THAT POSSESSION OF MORE THAN FIVE COPIES WITH INTENT TO PREVENT OTHER INDIVIDUALS FROM READING THAT EDITION OF THE NEWSPAPER IS ILLEGAL.

(2) NEWSPAPER THEFT IS A MISDEMEANOR AND SHALL BE PUNISHED BY A FINE OF:

(a) UP TO ONE THOUSAND DOLLARS IF THE NUMBER OF NEWSPAPERS INVOLVED WAS ONE HUNDRED OR FEWER OR THE NUMBER OF NEWSPAPERS INVOLVED WAS NOT DETERMINED;

(b) UP TO TWO THOUSAND FIVE HUNDRED DOLLARS IF THE NUMBER OF NEWSPAPERS INVOLVED WAS MORE THAN ONE HUNDRED AND FEWER THAN FIVE HUNDRED;

(c) UP TO FIVE THOUSAND DOLLARS IF THE NUMBER OF NEWSPAPERS INVOLVED WAS FIVE HUNDRED OR MORE.

(3) AS USED IN THIS SECTION:

(a) "EDITION OF A NEWSPAPER" MEANS A SINGLE PRESS RUN OF A NEWSPAPER.

(b) "NEWSPAPER" MEANS A PERIODICAL THAT INCLUDES NEWS, EDITORIALS, OPINION, FEATURES, OR OTHER MATTERS OF PUBLIC INTEREST THAT IS DISTRIBUTED ON A COMPLIMENTARY BASIS. NEWSPAPER INCLUDES ANY STUDENT PERIODICAL DISTRIBUTED AT ANY INSTITUTION OF HIGHER EDUCATION.

(c) "PERIODICAL" MEANS A PUBLICATION PRODUCED ON A REGULAR INTERVAL.

(4) NOTWITHSTANDING ANY OTHER REMEDIES PROVIDED UNDER THIS SECTION, A NEWSPAPER PUBLISHER WHO IS THE VICTIM OF NEWSPAPER THEFT, AN ADVERTISER WHO PLACED AN ADVERTISEMENT IN A NEWSPAPER THAT WAS SUBJECT TO NEWSPAPER THEFT, OR A NEWSPAPER READER WHO REGULARLY READS THE NEWSPAPER SUBJECT TO NEWSPAPER THEFT SHALL HAVE A PRIVATE CIVIL RIGHT OF ACTION AS PROVIDED IN SECTION 13-21-123, C.R.S., AGAINST THE PERSON OR PERSONS WHO ACTED IN VIOLATION OF SUBSECTION (1) OF THIS SECTION.

(5) THIS SECTION SHALL NOT APPLY TO A PERSON WHO, WITH THE AUTHORITY OR PERMISSION OF THE PERSON WHO POSSESSES REAL OR PERSONAL PROPERTY, REMOVES OR DISPOSES OF NEWSPAPERS THAT HAVE BEEN DEPOSITED IN OR LEFT ON THAT PROPERTY WITHOUT THE AUTHORITY OR PERMISSION OF THE PERSON WHO POSSESSES THE REAL OR PERSONAL PROPERTY.

SECTION 3. Part 1 of article 21 of title 13, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

13-21-123. Civil liability for newspaper theft. NOTWITHSTANDING ANY OTHER REMEDIES PROVIDED UNDER THIS SECTION, A NEWSPAPER PUBLISHER WHO IS THE VICTIM OF NEWSPAPER THEFT AS DESCRIBED IN SECTION 18-4-419, C.R.S., OR WHO HAD COMPENSATORY NEWSPAPERS STOLEN, AN ADVERTISER WHO PLACED AN

ADVERTISEMENT IN A NEWSPAPER THAT WAS SUBJECT TO NEWSPAPER THEFT OR A COMPENSATORY NEWSPAPER THAT WAS STOLEN, OR A NEWSPAPER READER WHO REGULARLY READS A NEWSPAPER SUBJECT TO NEWSPAPER THEFT OR A COMPENSATORY NEWSPAPER THAT WAS STOLEN SHALL HAVE A PRIVATE CIVIL RIGHT OF ACTION AGAINST THE PARTY WHO STOLE THE NEWSPAPERS. IN ANY SUCH ACTION, THE NEWSPAPER PUBLISHER SHALL BE ENTITLED TO ACTUAL DAMAGES, A CIVIL PENALTY OF TEN DOLLARS FOR EACH NEWSPAPER OBTAINED IN VIOLATION OF SECTION 18-4-419, C.R.S., AND ATTORNEY FEES AND COSTS, AND THE ADVERTISER OR NEWSPAPER READER SHALL BE ENTITLED TO ACTUAL DAMAGES AND ATTORNEY FEES AND COSTS.

SECTION 4. Effective date - applicability. This act shall take effect July 1, 2004, and section 2 shall apply to offenses committed on or after said date and section 3 shall apply to causes of action arising on or after said date.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 13, 2004