

CHAPTER 384

CRIMINAL LAW AND PROCEDURE

SENATE BILL 07-260

BY SENATOR(S) Tapia, Keller, Johnson, and Boyd;
also REPRESENTATIVE(S) White, Buescher, Pommer, Carroll M., Carroll T., Casso, Gallegos, and Todd.

AN ACT**CONCERNING CHANGES TO CRIMINAL LAWS TO REDUCE THE COSTS OF INCARCERATION.**

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that the increase to value-based crimes contained in this act is based upon inflationary changes since the previous time the general assembly enacted an increase to value-based crimes.

SECTION 2. 12-44-102, Colorado Revised Statutes, is amended to read:

12-44-102. Defrauding an innkeeper. ~~Any~~ A person who, with intent to defraud, procures food or accommodations from ~~any~~ A public establishment, without making payment therefor in accordance with his or her agreement with ~~such~~ THE public establishment, is guilty of a misdemeanor if the total amount due under ~~such~~ THE agreement is ~~five hundred~~ ONE THOUSAND dollars or less and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment; and, if the amount due under ~~such~~ THE agreement is more than ~~five hundred~~ ONE THOUSAND dollars, ~~such~~ THE person commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

SECTION 3. 18-4-401 (2), (4), and (8), Colorado Revised Statutes, are amended to read:

18-4-401. Theft. (2) Theft is:

(a) ~~A class 3 misdemeanor if the value of the thing involved is less than one~~

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

~~hundred dollars;~~

(b) A class 2 misdemeanor if the value of the thing involved is ~~one hundred dollars or more but~~ less than five hundred dollars;

(b.5) A CLASS 1 MISDEMEANOR IF THE VALUE OF THE THING INVOLVED IS FIVE HUNDRED DOLLARS OR MORE BUT LESS THAN ONE THOUSAND DOLLARS;

(c) A class 4 felony if the value of the thing involved is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars;

(d) A class 3 felony if the value of the thing involved is ~~fifteen~~ TWENTY thousand dollars or more.

(4) When a person commits theft twice or more within a period of six months without having been placed in jeopardy for the prior offense or offenses, and the aggregate value of the things involved is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars, it is a class 4 felony; however, if the aggregate value of the things involved is ~~fifteen~~ TWENTY thousand dollars or more, it is a class 3 felony.

(8) A municipality shall have concurrent power to prohibit theft, by ordinance, where the value of the thing involved is less than ~~five hundred~~ ONE THOUSAND dollars.

SECTION 4. 18-4-402 (2), (3), (4), (5), and (6), Colorado Revised Statutes, are amended, and the said 18-4-402 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

18-4-402. Theft of rental property. (2) ~~Theft of rental property is a class 3 misdemeanor where the value of the property involved is less than one hundred dollars.~~

(3) ~~Theft of rental property is a class 2 misdemeanor where the value of the property involved is one hundred dollars or more and is less than five hundred dollars.~~

(3.5) THEFT OF RENTAL PROPERTY IS A CLASS 1 MISDEMEANOR WHERE THE VALUE OF THE PROPERTY INVOLVED IS FIVE HUNDRED DOLLARS OR MORE BUT LESS THAN ONE THOUSAND DOLLARS.

(4) Theft of rental property is a class 5 felony where the value of the property involved is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars.

(5) Theft of rental property is a class 3 felony where the value of the property involved is ~~fifteen~~ TWENTY thousand dollars or more.

(6) When a person commits theft of rental property twice or more within a period of six months without having been placed in jeopardy for the prior offense or offenses, and the aggregate value of the property involved is ~~five hundred~~ ONE

THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars, it is a class 5 felony; however, if the aggregate value of the property involved is ~~fifteen~~ TWENTY thousand dollars or more, it is a class 3 felony.

SECTION 5. 18-4-409 (3) and (4), Colorado Revised Statutes, are amended to read:

18-4-409. Aggravated motor vehicle theft. (3) Aggravated motor vehicle theft in the first degree is a:

(a) Class 4 felony if the value of the motor vehicle or motor vehicles involved is ~~fifteen~~ TWENTY thousand dollars or less;

(b) Class 3 felony if the value of the motor vehicle or motor vehicles involved is more than ~~fifteen~~ TWENTY 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.

(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) Class 5 felony if the value of the motor vehicle or motor vehicles involved is ~~fifteen~~ TWENTY thousand dollars or more;

(b) Class 6 felony if the value of the motor vehicle or motor vehicles involved is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars;

(c) ~~Class 2~~ CLASS 1 misdemeanor if the value of the motor vehicle or motor vehicles involved is less than ~~five hundred~~ ONE THOUSAND dollars.

SECTION 6. 18-4-410 (2), (3), (4), (5), (6), and (7), Colorado Revised Statutes, are amended, and the said 18-4-410 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

18-4-410. Theft by receiving. (2) ~~Where the value of the thing involved is less than one hundred dollars, theft by receiving is a class 3 misdemeanor.~~

(3) ~~Where the value of the thing involved is one hundred dollars or more but less than five hundred dollars, theft by receiving is a class 2 misdemeanor.~~

(3.5) WHERE THE VALUE OF THE THING INVOLVED IS FIVE HUNDRED DOLLARS OR MORE BUT LESS THAN ONE THOUSAND DOLLARS, THEFT BY RECEIVING IS A CLASS 1 MISDEMEANOR.

(4) Where the value of the thing involved is ~~five hundred~~ ONE THOUSAND dollars

or more but less than ~~fifteen~~ TWENTY thousand dollars, theft by receiving is a class 4 felony.

(5) Where the value of the thing involved is ~~fifteen~~ TWENTY thousand dollars or more, theft by receiving is a class 3 felony.

(6) When the aggregate value of the thing or things involved is ~~five hundred~~ ONE THOUSAND dollars or more and the person committing theft by receiving is engaged in the business of buying, selling, or otherwise disposing of stolen goods for a profit, theft by receiving is a class 3 felony.

(7) When a person commits theft by receiving twice or more within a period of six months without having been placed in jeopardy for the prior offenses and the aggregate value of the things involved is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars, it is a class 4 felony; however, if the aggregate value of the things involved is ~~fifteen~~ TWENTY thousand dollars or more, it is a class 3 felony.

SECTION 7. 18-4-501 (1), Colorado Revised Statutes, is amended to read:

18-4-501. Criminal mischief. (1) ~~Any~~ A person who knowingly damages the real or personal property of one or more other persons, including property owned by the person jointly with another person or property owned by the person in which another person has a possessory or proprietary interest in the course of a single criminal episode, commits a ~~class 3~~ CLASS 2 misdemeanor where the aggregate damage to the real or personal property is less than ~~one~~ FIVE hundred dollars. ~~Where the aggregate damage to the real or personal property is one hundred dollars or more but less than five hundred dollars, such person commits a class 2 misdemeanor.~~ WHERE THE AGGREGATE DAMAGE TO THE REAL OR PERSONAL PROPERTY IS FIVE HUNDRED DOLLARS OR MORE BUT LESS THAN ONE THOUSAND DOLLARS, THE PERSON COMMITS A CLASS 1 MISDEMEANOR. Where the aggregate damage to the real or personal property is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars, ~~such~~ THE person commits a class 4 felony. Where the aggregate damage to the real or personal property is ~~fifteen~~ TWENTY thousand dollars or more, ~~such~~ THE person commits a class 3 felony.

SECTION 8. 18-5-205 (3) (a), (3) (b), and (3) (c), Colorado Revised Statutes, are amended, and the said 18-5-205 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

18-5-205. Fraud by check - definitions - penalties. (3) Fraud by check is:

(a) ~~A class 3 misdemeanor if the fraudulent check was in the sum of less than one hundred dollars;~~

(b) A class 2 misdemeanor if the fraudulent check was for the sum of ~~one hundred dollars or more~~ and less than five hundred dollars or if the offender is convicted of fraud by check involving the issuance of two or more checks within ~~any~~ A sixty-day period in the state of Colorado totaling ~~one hundred dollars or more~~ and less than five hundred dollars in the aggregate;

(b.5) A CLASS 1 MISDEMEANOR IF THE FRAUDULENT CHECK WAS FOR THE SUM OF FIVE HUNDRED DOLLARS OR MORE BUT LESS THAN ONE THOUSAND DOLLARS OR IF THE OFFENDER IS CONVICTED OF FRAUD BY CHECK INVOLVING THE ISSUANCE OF TWO OR MORE CHECKS WITHIN A SIXTY-DAY PERIOD IN THE STATE OF COLORADO TOTALING FIVE HUNDRED DOLLARS OR MORE BUT LESS THAN ONE THOUSAND DOLLARS IN THE AGGREGATE;

(c) A class 6 felony if the fraudulent check was for the sum of ~~five hundred~~ ONE THOUSAND dollars or more, or if the offender is convicted of fraud by check involving the issuance of two or more checks within ~~any~~ A sixty-day period in the state of Colorado totaling ~~five hundred~~ ONE THOUSAND dollars or more in the aggregate, or if the offender has been twice previously convicted under this section or a former statute of this state of similar content and purport;

SECTION 9. 18-5-206, Colorado Revised Statutes, is amended to read:

18-5-206. Defrauding a secured creditor or debtor. (1) If a person, with intent to defraud a creditor by defeating, impairing, or rendering worthless or unenforceable any security interest, sells, assigns, transfers, conveys, pledges, encumbers, conceals, destroys, or disposes of any collateral subject to a security interest:

(a) ~~Such person commits a class 3 misdemeanor if the value of the collateral is less than one hundred dollars;~~

(b) ~~Such~~ THE person commits a class 2 misdemeanor if the value of the collateral is ~~one hundred dollars or more but~~ less than five hundred dollars;

(b.5) THE PERSON COMMITS A CLASS 1 MISDEMEANOR IF THE VALUE OF THE COLLATERAL IS FIVE HUNDRED DOLLARS OR MORE BUT LESS THAN ONE THOUSAND DOLLARS;

(c) ~~Such~~ THE person commits a class 5 felony if the value of the collateral is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars; and

(d) ~~Such~~ THE person commits a class 3 felony if the value of the collateral is ~~fifteen~~ TWENTY thousand dollars or more.

(2) If a creditor, with intent to defraud a debtor, sells, assigns, transfers, conveys, pledges, buys, or encumbers a promissory note or contract signed by the debtor:

(a) ~~Such creditor commits a class 3 misdemeanor if the amount owing on the note or contract is less than one hundred dollars;~~

(b) ~~Such~~ THE creditor commits a class 2 misdemeanor if the amount owing on ~~such~~ THE note or contract is ~~one hundred dollars or more but~~ less than five hundred dollars;

(b.5) THE CREDITOR COMMITS A CLASS 1 MISDEMEANOR IF THE AMOUNT OWING ON THE NOTE OR CONTRACT IS FIVE HUNDRED DOLLARS OR MORE BUT LESS THAN

ONE THOUSAND DOLLARS;

(c) ~~Such~~ THE creditor commits a class 5 felony if the amount owing on ~~such~~ THE note or contract is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars; and

(d) ~~Such~~ THE creditor commits a class 3 felony if the amount owing on ~~such~~ THE note or contract is ~~fifteen~~ TWENTY thousand dollars or more.

SECTION 10. 18-5-502, Colorado Revised Statutes, is amended to read:

18-5-502. Failure to pay over assigned accounts. Where, under the terms of an assignment of an account, as defined in section 4-9-102 (a) (2), C.R.S., the assignor, being permitted to collect the proceeds from the debtor, is to pay over to the assignee any of ~~such~~ THE proceeds and, after collection thereof, the assignor willfully and wrongfully fails to pay over to the assignee ~~such~~ THE proceeds amounting to ~~five hundred~~ ONE THOUSAND dollars or more, the person commits a class 5 felony. Where the amount of ~~such~~ THE proceeds withheld by the assignor is less than ~~five hundred~~ ONE THOUSAND dollars, the person commits a ~~class 2~~ CLASS 1 misdemeanor.

SECTION 11. 18-5-504, Colorado Revised Statutes, is amended to read:

18-5-504. Concealment or removal of secured property. If a person who has given a security interest in personal property, as security interest is defined in section 4-1-201 (b) (35), C.R.S., or other person with actual knowledge of ~~such~~ THE security interest, during the existence of the security interest, knowingly conceals or removes the encumbered property from the state of Colorado without written consent of the secured creditor, the person commits a class 5 felony where the value of the property concealed or removed is ~~five hundred~~ ONE THOUSAND dollars or more. Where the value of the property concealed or removed is less than ~~five hundred~~ ONE THOUSAND dollars, the person commits a ~~class 2~~ CLASS 1 misdemeanor.

SECTION 12. 18-5-505, Colorado Revised Statutes, is amended to read:

18-5-505. Failure to pay over proceeds unlawful. Where, under the terms of ~~any~~ AN instrument creating a security interest in personal property, as security interest is defined in section 4-1-201 (b) (35), C.R.S., the person giving the security interest and retaining possession of the encumbered property and having liberty of sale or other disposition, is required to account to the secured creditor for the proceeds of ~~such~~ THE sale or other disposition, and willfully and wrongfully fails to pay to the secured creditor the amounts due on account thereof, the person giving the security interest commits a class 5 felony where the amount of the proceeds withheld is ~~five hundred~~ ONE THOUSAND dollars or more. If the amount of the proceeds withheld is less than ~~five hundred~~ ONE THOUSAND dollars, the person commits a ~~class 2~~ CLASS 1 misdemeanor.

SECTION 13. 18-5-702 (3), Colorado Revised Statutes, is amended to read:

18-5-702. Unauthorized use of a financial transaction device.

(3) Unauthorized use of a financial transaction device is:

(a) ~~A class 1 petty offense if the value of the cash, credit, property, or services obtained or of the financial payments made is less than one hundred dollars;~~

(b) A ~~class 2~~ CLASS 1 misdemeanor if the value of the cash, credit, property, or services obtained or of the financial payments made is ~~one hundred dollars or more but less than five hundred~~ ONE THOUSAND dollars;

(c) A class 5 felony if the value of the cash, credit, property, or services obtained or of the financial payments made is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars;

(d) A class 3 felony if the value of the cash, credit, property, or services obtained or of the financial payments made is ~~fifteen~~ TWENTY thousand dollars or more.

SECTION 14. 18-5.5-102 (3) (a), Colorado Revised Statutes, is amended to read:

18-5.5-102. Computer crime. (3) (a) Except as provided in paragraph (b) of this subsection (3), if the loss, damage, value of services, or thing of value taken, or cost of restoration or repair caused by a violation of this section is ~~less than one hundred dollars, computer crime is a class 3 misdemeanor; if one hundred dollars or more but less than five hundred dollars, computer crime is a class 2 misdemeanor; IF FIVE HUNDRED DOLLARS OR MORE BUT LESS THAN ONE THOUSAND DOLLARS, COMPUTER CRIME IS A CLASS 1 MISDEMEANOR; if five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars, computer crime is a class 4 felony; if ~~fifteen~~ TWENTY thousand dollars or more, computer crime is a class 3 felony.

SECTION 15. 26-2-306 (2) and (3), Colorado Revised Statutes, are amended to read:

26-2-306. Trafficking in food stamps. (2) Trafficking in food stamps is:

(a) ~~A class 3 misdemeanor under section 18-1.3-501, C.R.S., if the value of the food stamps is less than one hundred dollars;~~

(b) A class 2 misdemeanor under section 18-1.3-501, C.R.S., if the value of the food stamps is ~~one hundred dollars or more but less than five hundred dollars;~~

(b.5) A CLASS 1 MISDEMEANOR UNDER SECTION 18-1.3-501, C.R.S., IF THE VALUE OF THE FOOD STAMPS IS FIVE HUNDRED DOLLARS OR MORE BUT LESS THAN ONE THOUSAND DOLLARS;

(c) A class 4 felony under section 18-1.3-401, C.R.S., if the value of the food stamps is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars;

(d) A class 3 felony under section 18-1.3-401, C.R.S., if the value of the food stamps is ~~fifteen~~ TWENTY thousand dollars or more.

(3) When a person commits the offense of trafficking in food stamps twice or more within a period of six months without having been placed in jeopardy for the prior offense or offenses and the aggregate value of the food stamps involved is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars, it is a class 4 felony; however, if the aggregate value of the food stamps involved is ~~fifteen~~ TWENTY thousand dollars or more, it is a class 3 felony.

SECTION 16. 42-5-103 (2), Colorado Revised Statutes, is amended to read:

42-5-103. Tampering with a motor vehicle. (2) Tampering with a motor vehicle is:

(a) A ~~class 2~~ CLASS 1 misdemeanor if the damage is less than ~~five hundred~~ ONE THOUSAND dollars;

(b) A class 5 felony if the damage is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars;

(c) A class 3 felony if the damage is ~~fifteen~~ TWENTY thousand dollars or more or causes bodily injury to ~~any~~ A person.

SECTION 17. 42-5-104 (2) and (3), Colorado Revised Statutes, are amended to read:

42-5-104. Theft of motor vehicle parts - theft of license plates. (2) Theft of motor vehicle parts is:

(a) A ~~class 2~~ CLASS 1 misdemeanor if the value of the thing involved is less than ~~five hundred~~ ONE THOUSAND dollars;

(b) A class 5 felony if the value of the thing involved is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars;

(c) A class 3 felony if the value of the thing involved is ~~fifteen~~ TWENTY thousand dollars or more.

(3) When a person commits theft of motor vehicle parts two times or more within a period of six months without having been placed in jeopardy for the prior offense or offenses and the aggregate value of the things involved is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars, it is a class 5 felony; however, if the aggregate value of the things involved is ~~fifteen~~ TWENTY thousand dollars or more, it is a class 4 felony.

SECTION 18. 24-33.5-503 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-33.5-503. Duties of division. (1) The division has the following duties:

(s) TO REPORT, ON OR BEFORE JANUARY 15, 2011, AND EVERY FIVE YEARS THEREAFTER, IN CONSULTATION WITH THE STATE ECONOMIST, TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY

SUCCESSOR COMMITTEES, RECOMMENDATIONS FOR CHANGES TO VALUE-BASED CRIMES BASED UPON INFLATIONARY CHANGES DURING THE PREVIOUS FIVE YEARS.

SECTION 19. Effective date - applicability. This act shall take effect July 1, 2007, and shall apply to offenses committed on or after said date.

SECTION 20. 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: May 31, 2007