

CHAPTER 244

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 09-1334

BY REPRESENTATIVE(S) McCann and Apuan, Court, Gardner B., King S., Lambert, Ryden, Schafer S., Vigil, Waller, Baumgardner, Priola, Roberts, Todd, Carroll T.;
also SENATOR(S) Newell, Morse.

AN ACT**CONCERNING THE AGGREGATION OF MULTIPLE OFFENSES INVOLVING THEFT-TYPE CRIMES INTO A SINGLE OFFENSE.**

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

SECTION 1. Legislative declaration. (1) It is the general assembly's intent in adopting this act to clarify that:

(a) The general assembly's intent in previously adopting the aggregation provisions of sections 18-4-401 (4), 18-4-402 (6), 18-4-410 (7), and 26-2-306 (3), Colorado Revised Statutes, and in amending those provisions from time to time, was to allow, but not require, aggregation of multiple violations of those statutes, committed within a period of six months, into a single offense for the purposes of determining the grade of offense; and

(b) The general assembly's intent in adopting the provisions of section 18-4-401, Colorado Revised Statutes, and in amending those provisions from time to time, was not to override the judicial construction given to that statute and its predecessors that allows prosecution in a single offense of multiple takings committed over periods longer than six months pursuant to a single criminal impulse in execution of a single fraudulent scheme.

SECTION 2. 18-4-401 (4), Colorado Revised Statutes, is amended to read:

18-4-401. Theft. (4) (a) 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~~ TWO OR MORE OF THE THEFTS MAY BE AGGREGATED AND CHARGED IN A SINGLE COUNT, IN WHICH EVENT THE THEFTS SO AGGREGATED AND CHARGED

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

SHALL CONSTITUTE A SINGLE OFFENSE, AND, IF the aggregate value of the things involved is one thousand dollars or more but less than twenty thousand dollars, it is a class 4 felony; however, if the aggregate value of the things involved is twenty thousand dollars or more, it is a class 3 felony.

(b) WHEN A PERSON COMMITS THEFT TWICE OR MORE AGAINST THE SAME PERSON PURSUANT TO ONE SCHEME OR COURSE OF CONDUCT, THE THEFTS MAY BE AGGREGATED AND CHARGED IN A SINGLE COUNT, IN WHICH EVENT THEY SHALL CONSTITUTE A SINGLE OFFENSE, AND, IF THE AGGREGATE VALUE OF THE THINGS INVOLVED IS ONE THOUSAND DOLLARS OR MORE BUT LESS THAN TWENTY THOUSAND DOLLARS, IT IS A CLASS 4 FELONY; HOWEVER, IF THE AGGREGATE VALUE OF THE THINGS INVOLVED IS TWENTY THOUSAND DOLLARS OR MORE, IT IS A CLASS 3 FELONY.

SECTION 3. 18-4-402 (6), Colorado Revised Statutes, is amended to read:

18-4-402. Theft of rental property. (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~~ TWO OR MORE OF THE THEFTS OF RENTAL PROPERTY MAY BE AGGREGATED AND CHARGED IN A SINGLE COUNT, IN WHICH EVENT THE THEFTS SO AGGREGATED AND CHARGED SHALL CONSTITUTE A SINGLE OFFENSE, AND, IF the aggregate value of the property involved is one thousand dollars or more but less than twenty thousand dollars, it is a class 5 felony; however, if the aggregate value of the property involved is twenty thousand dollars or more, it is a class 3 felony.

SECTION 4. 18-4-410 (7), Colorado Revised Statutes, is amended to read:

18-4-410. Theft by receiving. (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~~ TWO OR MORE OF THE THEFTS BY RECEIVING MAY BE AGGREGATED AND CHARGED IN A SINGLE COUNT, IN WHICH EVENT THE THEFTS SO AGGREGATED AND CHARGED SHALL CONSTITUTE A SINGLE OFFENSE, AND, IF the aggregate value of the things involved is one thousand dollars or more but less than twenty thousand dollars, it is a class 4 felony; however, if the aggregate value of the things involved is twenty thousand dollars or more, it is a class 3 felony.

SECTION 5. 26-2-306 (3), Colorado Revised Statutes, is amended to read:

26-2-306. Trafficking in food stamps. (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~~ TWO OR MORE OF THE OFFENSES MAY BE AGGREGATED AND CHARGED IN A SINGLE COUNT, IN WHICH EVENT THE OFFENSES SO AGGREGATED AND CHARGED SHALL CONSTITUTE A SINGLE OFFENSE, AND, IF the aggregate value of the food stamps involved is one thousand dollars or more but less than twenty thousand dollars, it is a class 4 felony; however, if the aggregate value of the food stamps involved is twenty thousand dollars or more, it is a class 3 felony.

SECTION 6. 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 11, 2009