

Amendment - 2nd Reading-yellow - Requested by: Jennifer Carlson - (H) Committee of the Whole

68th Legislature

Drafter: Rachel Weiss, 406-444-5367

HB0038.002.001

HOUSE BILL NO. 38

INTRODUCED BY G. OBLANDER

BY REQUEST OF THE CRIMINAL JUSTICE OVERSIGHT COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING THE THEFT OF A LIGHT VEHICLE A FELONY;
REVISING SENTENCING LAWS FOR THEFT; AND AMENDING SECTION 45-6-301, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-6-301, MCA, is amended to read:

"45-6-301. Theft. (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

(a) has the purpose of depriving the owner of the property;

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(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county agency, regardless of the original source of assistance, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) a fraudulent scheme or device.

(5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter 71, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) deception or other fraudulent action.

(6) A person commits the offense of theft of property by embezzlement when, with the purpose to deprive the owner of the property, the person:

(a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer or over property entrusted to the person; or

(b) purposely or knowingly obtains by deception control over property of the person's employer or over property entrusted to the person.

(7) (a) Except as provided in subsections (7)(b), (7)(d), and ~~(7)(d)(e)~~, a person convicted of a first offense of the offense of theft of property not exceeding \$1,500 in value shall be fined an amount not to exceed \$500. A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined an amount not to exceed \$500 and be imprisoned in the county jail for a term of not less than 5 days or more than 1 year.

(b) (i) Except as provided in ~~subsection~~ subsections (7)(c) and (7)(e), a person convicted of the

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1 offense of theft of property that exceeds \$1,500 in value and does not exceed \$5,000 in value shall be fined an
2 amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both. A
3 person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the
4 state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall
5 be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an
6 amount not to exceed \$5,000.

7 (ii) A person convicted of the theft of property exceeding \$5,000 in value or as part of a common
8 scheme as defined in 45-2-101, or the theft of any amount of anhydrous ammonia for the purpose of
9 manufacturing dangerous drugs, shall be fined an amount not to exceed \$10,000 or be imprisoned in a state
10 prison for a term not to exceed 10 years, or both.

11 (iii) A person convicted of the theft of any commonly domesticated hooved animal shall be fined an
12 amount of not less than \$5,000 or more than \$50,000 or be imprisoned in a state prison for a term not to
13 exceed 10 years, or both. If a prison term is deferred, the court shall order the offender to perform 416 hours of
14 community service during a 1-year period, in the offender's county of residence. In addition to the fine and
15 imprisonment, the offender's property is subject to criminal forfeiture pursuant to 45-6-328 and 45-6-329.

16 (c) A person convicted of the offense of theft of property exceeding \$10,000 in value by
17 embezzlement shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years
18 and may be fined an amount not to exceed \$50,000. The court may, in its discretion, place the person on
19 probation with the requirement that restitution be made under terms set by the court. If the terms are not met,
20 the required prison term may be ordered.

21 (d) A person convicted of a first offense for the offense of theft of property not exceeding \$1,500 in
22 value and who utilized an emergency exit in furtherance of that offense shall be fined an amount not to exceed
23 \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. On a second conviction, the
24 offender shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to
25 exceed 1 year, or both. On a third conviction, the offender shall be fined an amount not to exceed \$5,000 and
26 be imprisoned in the county jail for a term of not less than 5 days or more than 1 year.

27 (e) A person convicted of the offense of theft of property of a light vehicle, as defined in 61-1-101,

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1 ~~THAT IS OPERATIONAL~~ shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a
2 term not to exceed 10 years, or both.

3 (8) Amounts involved in thefts committed pursuant to a common scheme or the same transaction,
4 whether from the same person or several persons, may be aggregated in determining the value of the property.

5 (9) A person convicted of the offense of theft of property not exceeding \$100 in value is presumed
6 to qualify for a deferred imposition of sentence as long as the person has not been convicted of a misdemeanor
7 or felony offense in the past 5 years."

8 - END -