

## 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;

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

1 owner of the property; or

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

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

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

8 (b) a fraudulent scheme or device.

9 (5) A person commits the offense of theft when the person purposely or knowingly obtains or  
10 exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title  
11 39, chapter 71, by means of:

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

13 (b) deception or other fraudulent action.

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

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

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

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

26 (b) (i) Except as provided in ~~subsection~~ subsections (7)(c) and (7)(e), a person convicted of the  
27 offense of theft of property that exceeds \$1,500 in value and does not exceed \$5,000 in value shall be fined an  
28 amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both. A

1 person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the  
2 state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall  
3 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  
4 amount not to exceed \$5,000.

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

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

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

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

25 (e) A person convicted of the offense of theft of property of a light vehicle, as defined in 61-1-101,  
26 THAT IS OPERATIONAL shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a  
27 term not to exceed 10 years, or both.

28 (8) Amounts involved in thefts committed pursuant to a common scheme or the same transaction,

1 whether from the same person or several persons, may be aggregated in determining the value of the property.

2 (9) A person convicted of the offense of theft of property not exceeding \$100 in value is presumed

3 to qualify for a deferred imposition of sentence as long as the person has not been convicted of a misdemeanor

4 or felony offense in the past 5 years."

5 - END -