

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 195

HOUSE BILL 2581

AN ACT

AMENDING SECTIONS 13-1208, 13-1802, 13-1805, 13-1806, 13-2208, 13-2704, 13-3002, 13-3305, 13-3610 AND 13-3611, ARIZONA REVISED STATUTES; RELATING TO CRIMINAL CLASSIFICATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1208, Arizona Revised Statutes, is amended to
3 read:

4 13-1208. Assault; vicious animals; classification; exception

5 A. A person who owns a dog ~~which~~ THAT the owner knows or has reason to
6 know has a propensity to attack, to cause injury or TO otherwise endanger the
7 safety of human beings without provocation or ~~which~~ THAT has been found to be
8 a vicious animal by a court of competent ~~authority, which~~ JURISDICTION AND
9 THAT bites, inflicts physical injury on or attacks a human being while at
10 large is guilty of a class ~~6 felony~~ 1 MISDEMEANOR.

11 B. A person who owns a dog ~~which~~ THAT the owner knows or has reason to
12 know ~~that the dog~~ has a propensity to attack, to cause injury or TO otherwise
13 endanger the safety of human beings without provocation or ~~which~~ THAT has
14 been found to be a vicious animal and who keeps the dog or vicious animal in
15 an enclosed area or yard outside of a residence or structure on the property
16 shall post a notice indicating the presence of the dog or vicious animal.

17 C. ~~The provisions of This section shall~~ DOES not apply to dogs THAT
18 ARE owned or used by a law enforcement agency and ~~which~~ THAT are used in the
19 performance of police work.

20 Sec. 2. Section 13-1802, Arizona Revised Statutes, is amended to read:
21 13-1802. Theft; classification

22 A. A person commits theft if, without lawful authority, the person
23 knowingly:

24 1. Controls property of another with the intent to deprive the other
25 person of such property; or

26 2. Converts for an unauthorized term or use services or property of
27 another entrusted to the defendant or placed in the defendant's possession
28 for a limited, authorized term or use; or

29 3. Obtains services or property of another by means of any material
30 misrepresentation with intent to deprive the other person of such property or
31 services; or

32 4. Comes into control of lost, mislaid or misdelivered property of
33 another under circumstances providing means of inquiry as to the true owner
34 and appropriates such property to the person's own or another's use without
35 reasonable efforts to notify the true owner; or

36 5. Controls property of another knowing or having reason to know that
37 the property was stolen; or

38 6. Obtains services known to the defendant to be available only for
39 compensation without paying or an agreement to pay the compensation or
40 diverts another's services to the person's own or another's benefit without
41 authority to do so.

42 B. A person commits theft if the person knowingly takes control,
43 title, use or management of an incapacitated or vulnerable adult's assets or
44 property through intimidation or deception, as defined in section 46-456.

1 while acting in a position of trust and confidence and with the intent to
2 deprive the incapacitated or vulnerable adult of the asset or property.

3 C. The inferences set forth in section 13-2305 apply to any
4 prosecution under subsection A, paragraph 5 of this section.

5 D. At the conclusion of any grand jury proceeding, hearing or trial,
6 the court shall preserve any trade secret that is admitted in evidence or any
7 portion of a transcript that contains information relating to the trade
8 secret pursuant to section 44-405.

9 E. Theft of property or services with a value of twenty-five thousand
10 dollars or more is a class 2 felony. Theft of property or services with a
11 value of ~~three~~ FOUR thousand dollars or more but less than twenty-five
12 thousand dollars is a class 3 felony. Theft of property or services with a
13 value of ~~two~~ THREE thousand dollars or more but less than ~~three~~ FOUR thousand
14 dollars is a class 4 felony. Theft of property or services with a value of
15 ~~one~~ TWO thousand dollars or more but less than ~~two~~ THREE thousand dollars is
16 a class 5 felony. Theft of property or services with a value of ~~two hundred~~
17 ~~fifty~~ ONE THOUSAND dollars or more but less than ~~one~~ TWO thousand dollars is
18 a class 6 felony. Theft of any property or services valued at less than ~~two~~
19 ~~hundred fifty~~ ONE THOUSAND dollars is a class 1 misdemeanor, unless ~~such~~ THE
20 property is taken from the person of another, ~~or~~ is a firearm or is a dog
21 taken for the purpose of dog fighting in violation of section 13-2910.01, in
22 which case the theft is a class 6 felony.

23 F. A person who is convicted of a violation of subsection A, paragraph
24 1 or 3 of this section that involved property with a value of one hundred
25 thousand dollars or more is not eligible for suspension of sentence,
26 probation, pardon or release from confinement on any basis except pursuant to
27 section 31-233, subsection A or B until the sentence imposed by the court has
28 been served, the person is eligible for release pursuant to section
29 41-1604.07 or the sentence is commuted.

30 Sec. 3. Section 13-1805, Arizona Revised Statutes, is amended to read:
31 13-1805. Shoplifting; detaining suspect; defense to wrongful
32 detention; civil action by merchant; classification;
33 public services in lieu of fines

34 A. A person commits shoplifting if, while in an establishment in which
35 merchandise is displayed for sale, ~~such~~ THE person knowingly obtains such
36 goods of another with the intent to deprive that person of such goods by:

37 1. Removing any of the goods from the immediate display or from any
38 other place within the establishment without paying the purchase price; or

39 2. Charging the purchase price of the goods to a fictitious person or
40 any person without that person's authority; or

41 3. Paying less than the purchase price of the goods by some trick or
42 artifice such as altering, removing, substituting or otherwise disfiguring
43 any label, price tag or marking; or

1 4. Transferring the goods from one container to another; or

2 5. Concealment.

3 B. Any person who knowingly conceals upon himself or another person
4 unpurchased merchandise of any mercantile establishment while within the
5 mercantile establishment ~~shall be~~ IS presumed to have the necessary culpable
6 mental state pursuant to subsection A of this section.

7 C. A merchant, or a merchant's agent or employee, with reasonable
8 cause, may detain on the premises in a reasonable manner and for a reasonable
9 time any person WHO IS suspected of shoplifting as defined PRESCRIBED in
10 subsection A of this section for questioning or summoning a law enforcement
11 officer.

12 D. Reasonable cause is a defense to a civil or criminal action against
13 a peace officer, a merchant or an agent or employee of ~~such~~ THE merchant for
14 false arrest, false or unlawful imprisonment or wrongful detention.

15 E. If a minor engages in conduct ~~which~~ THAT violates subsection A of
16 this section notwithstanding the fact that ~~such~~ THE minor may not be held
17 responsible because of the person's minority, any merchant injured by the
18 shoplifting of ~~such~~ THE minor may bring a civil action against the parent or
19 legal guardian of ~~such~~ THE minor under either section 12-661 or 12-692.

20 F. Any merchant WHO IS injured by the shoplifting of an adult or
21 emancipated minor in violation of subsection A of this section may bring a
22 civil action against the adult or emancipated minor pursuant to section
23 12-691.

24 G. Shoplifting property with a value of ~~more than~~ two thousand dollars
25 OR MORE or shoplifting property during any continuing criminal episode
26 regardless of the value of the goods is a class 5 felony. Shoplifting
27 property with a value of ONE THOUSAND DOLLARS OR ~~more than two hundred fifty~~
28 ~~dollars but not more~~ LESS than two thousand dollars is a class 6 felony.
29 Shoplifting property valued at ~~two hundred fifty~~ LESS THAN ONE THOUSAND
30 dollars ~~or less~~ is a class 1 misdemeanor, unless ~~such~~ THE property is a
31 firearm in which case the shoplifting is a class 6 felony. For the purposes
32 of this subsection, "continuing criminal episode" means theft committed from
33 at least three separate retail establishments within a period of three
34 consecutive days.

35 H. ~~The court may,~~ In imposing sentence ~~upon~~ ON a person WHO IS
36 convicted of violating this section, THE COURT MAY require any person to
37 perform public services designated by the court in addition to or in lieu of
38 any fine ~~which~~ THAT the court might impose.

39 I. A person who commits shoplifting and who has previously committed
40 or been convicted within the past five years of two or more offenses
41 involving burglary, shoplifting, robbery or theft or who in the course of
42 shoplifting entered the mercantile establishment with an artifice,
43 instrument, container, device or other article that was intended to
44 facilitate shoplifting, is guilty of a class 4 felony.

1 Sec. 4. Section 13-1806, Arizona Revised Statutes, is amended to read:
2 13-1806. Unlawful failure to return rented or leased property;
3 notice; classification

4 A. A person commits unlawful failure to return rented property if,
5 without notice to and permission of the lessor of THE property, ~~such~~ THE
6 person knowingly fails without good cause to return ~~such~~ THE property within
7 seventy-two hours after the time provided for ~~such~~ return in the rental
8 agreement.

9 B. If the property is not leased on a periodic tenancy basis, the
10 person who rents out the property shall include the following information,
11 clearly written as part of the terms of the rental agreement:

12 1. The date and time the property is required to be returned.

13 2. The maximum penalties if the property is not returned within
14 seventy-two hours of the date and time listed in paragraph 1.

15 C. If the property is leased on a periodic tenancy basis without a
16 fixed expiration or return date the lessor shall include within the lease
17 clear written notice that the lessee is required to return the property
18 within seventy-two hours from the date and time of the failure to pay any
19 periodic lease payment required by the lease.

20 D. It is a defense to prosecution under this section that the
21 defendant was physically incapacitated and unable to request or obtain
22 permission of the lessor to retain the property or that the property itself
23 was in such a condition, through no fault of the defendant, that it could not
24 be returned to the lessor within such time.

25 E. Unlawful failure to return rented or leased property is a ~~class 6~~
26 ~~felony unless the value of the property is under one hundred dollars in which~~
27 ~~case it is a class 1 misdemeanor.~~

28 Sec. 5. Section 13-2208, Arizona Revised Statutes, is amended to read:
29 13-2208. Usury; classification

30 A. A person commits usury by knowingly engaging in or directly or
31 indirectly providing financing for the business of making loans at a higher
32 rate of interest or consideration than authorized by law.

33 B. Usury is a class ~~6~~ ~~felony~~ 1 MISDEMEANOR.

34 Sec. 6. Section 13-2704, Arizona Revised Statutes, is amended to read:
35 13-2704. Unsworn falsification; classification

36 A. A person commits unsworn falsification by knowingly:

37 1. Making any statement ~~which~~ THAT he believes to be false, in regard
38 to a material issue, to a public servant in connection with an application
39 for any benefit, privilege or license.

40 2. Making any statement ~~which~~ THAT he believes to be false in regard
41 to a material issue to a public servant in connection with any official
42 proceeding as defined in section 13-2801.

43 B. Unsworn falsification pursuant to paragraph 1, subsection A, is a
44 class 2 misdemeanor. Unsworn falsification pursuant to subsection A,
45 paragraph 2 is a class ~~6~~ ~~felony~~ 1 MISDEMEANOR.

1 Sec. 7. Section 13-3002, Arizona Revised Statutes, is amended to read:
2 13-3002. False or forged messages; classification

3 A. It is unlawful for a person:

4 1. Knowingly to send to any person by telegraph or telephone a false
5 or forged message, purporting to be from a telegraph or telephone office, or
6 from any other person.

7 2. Knowingly to deliver or cause to be delivered to any person a false
8 or forged message, falsely purporting to have been received by telegraph or
9 telephone.

10 3. To furnish or conspire to furnish, or cause to be furnished to an
11 agent, operator or employee, to be sent by telegraph or telephone, or to be
12 delivered, a message, knowing it is false or forged, with intent to deceive,
13 injure or defraud another.

14 B. A person who violates ~~any provision of~~ this section is guilty of a
15 class ~~6-felony~~ 1 MISDEMEANOR.

16 Sec. 8. Section 13-3305, Arizona Revised Statutes, is amended to read:
17 13-3305. Betting and wagering; classification

18 A. Subject to the exceptions contained in section 5-112, no person may
19 engage for a fee, property, salary or reward in the business of accepting,
20 recording or registering any bet, purported bet, wager or purported wager or
21 engage for a fee, property, salary or reward in the business of selling
22 wagering pools or purported wagering pools with respect to the result or
23 purported result of any race, sporting event, contest or other game of skill
24 or chance or any other unknown or contingent future event or occurrence
25 whatsoever.

26 B. A person shall not directly or indirectly knowingly accept for a
27 fee, property, salary or reward anything of value from another to be
28 transmitted or delivered for wagering or betting on the results of a race,
29 sporting event, contest or other game of skill or chance or any other unknown
30 or contingent future event or occurrence whatsoever conducted within or
31 without this state or anything of value as reimbursement for the prior making
32 of such a wager or bet on behalf of another person.

33 C. A person who violates this section is guilty of a class ~~6-felony~~ 1
34 MISDEMEANOR.

35 Sec. 9. Section 13-3610, Arizona Revised Statutes, is amended to read:
36 13-3610. Abandonment of spouse; classification

37 A married person, having sufficient ability to provide for his or her
38 spouse's support or who is able to earn the means of such spouse's support,
39 who knowingly abandons and leaves such spouse in a destitute condition, is
40 guilty of a class ~~6-felony~~ 1 MISDEMEANOR.

1 Sec. 10. Section 13-3611, Arizona Revised Statutes, is amended to
2 read:

3 13-3611. Refusal or neglect to provide for spouse:
4 classification

5 A married person, having sufficient ability to provide for his or her
6 spouse's support or who is able to earn the means of such spouse's support,
7 who knowingly fails or refuses to provide the spouse with necessary food,
8 clothing, shelter or medical attendance, unless by such spouse's misconduct
9 he or she was justified in so doing, is guilty of a class ~~6~~-felony 1
10 MISDEMEANOR.

APPROVED BY THE GOVERNOR APRIL 24, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2006.