

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 73

SENATE BILL 1027

AN ACT

AMENDING SECTIONS 13-105, 13-1802 AND 13-4702, ARIZONA REVISED STATUTES;
RELATING TO VEHICLE THEFT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-105, Arizona Revised Statutes, is amended to
3 read:

4 13-105. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Act" means a bodily movement.

7 2. "Benefit" means anything of value or advantage, present or
8 prospective.

9 3. "Calendar year" means three hundred sixty-five days' actual time
10 served without release, suspension or commutation of sentence, probation,
11 pardon or parole, work furlough or release from confinement on any other
12 basis.

13 4. "Community supervision" means that portion of a felony sentence
14 imposed by the court pursuant to section 13-603, subsection I and served in
15 the community after completing a period of imprisonment or served in prison
16 in accordance with section 41-1604.07.

17 5. "Conduct" means an act or omission and its accompanying culpable
18 mental state.

19 6. "Crime" means a misdemeanor or a felony.

20 7. "Criminal street gang" means an ongoing formal or informal
21 association of persons whose members or associates individually or
22 collectively engage in the commission, attempted commission, facilitation or
23 solicitation of any felony act and ~~who~~ THAT has at least one individual who
24 is a criminal street gang member.

25 8. "Criminal street gang member" means an individual to whom two of
26 the following seven criteria that indicate criminal street gang membership
27 apply:

28 (a) Self-proclamation.

29 (b) Witness testimony or official statement.

30 (c) Written or electronic correspondence.

31 (d) Paraphernalia or photographs.

32 (e) Tattoos.

33 (f) Clothing or colors.

34 (g) Any other indicia of street gang membership.

35 9. "Culpable mental state" means intentionally, knowingly, recklessly
36 or with criminal negligence as those terms are thusly defined:

37 (a) "Intentionally" or "with the intent to" means, with respect to a
38 result or to conduct described by a statute defining an offense, that a
39 person's objective is to cause that result or to engage in that conduct.

40 (b) "Knowingly" means, with respect to conduct or to a circumstance
41 described by a statute defining an offense, that a person is aware or
42 believes that his or her conduct is of that nature or that the circumstance
43 exists. It does not require any knowledge of the unlawfulness of the act or
44 omission.

1 (c) "Recklessly" means, with respect to a result or to a circumstance
2 described by a statute defining an offense, that a person is aware of and
3 consciously disregards a substantial and unjustifiable risk that the result
4 will occur or that the circumstance exists. The risk must be of such nature
5 and degree that disregard of such risk constitutes a gross deviation from the
6 standard of conduct that a reasonable person would observe in the
7 situation. A person who creates such a risk but is unaware of such risk
8 solely by reason of voluntary intoxication also acts recklessly with respect
9 to such risk.

10 (d) "Criminal negligence" means, with respect to a result or to a
11 circumstance described by a statute defining an offense, that a person fails
12 to perceive a substantial and unjustifiable risk that the result will occur
13 or that the circumstance exists. The risk must be of such nature and degree
14 that the failure to perceive it constitutes a gross deviation from the
15 standard of care that a reasonable person would observe in the situation.

16 10. "Dangerous drug" means dangerous drug as defined by section
17 13-3401.

18 11. "Dangerous instrument" means anything that under the circumstances
19 in which it is used, attempted to be used or threatened to be used is readily
20 capable of causing death or serious physical injury.

21 12. "Deadly physical force" means force which is used with the purpose
22 of causing death or serious physical injury or in the manner of its use or
23 intended use is capable of creating a substantial risk of causing death or
24 serious physical injury.

25 13. "Deadly weapon" means anything designed for lethal use, ~~The term~~
26 ~~includes~~ INCLUDING a firearm.

27 14. "Economic loss" means any loss incurred by a person as a result of
28 the commission of an offense. Economic loss includes lost interest, lost
29 earnings and other losses which would not have been incurred but for the
30 offense. Economic loss does not include losses incurred by the convicted
31 person, damages for pain and suffering, punitive damages or consequential
32 damages.

33 15. "Enterprise" includes any corporation, association, labor union or
34 other legal entity.

35 16. "Felony" means an offense for which a sentence to a term of
36 imprisonment in the custody of the state department of corrections is
37 authorized by any law of this state.

38 17. "Firearm" means any loaded or unloaded handgun, pistol, revolver,
39 rifle, shotgun or other weapon which will or is designed to or may readily be
40 converted to expel a projectile by the action of expanding gases, except that
41 it does not include a firearm in permanently inoperable condition.

42 18. "Government" means the state, any political subdivision of the
43 state or any department, agency, board, commission, institution or
44 governmental instrumentality of or within the state or political subdivision.

1 19. "Government function" means any activity which a public servant is
2 legally authorized to undertake on behalf of a government.

3 20. "Intoxication" means any mental or physical incapacity resulting
4 from use of drugs, toxic vapors or intoxicating liquors.

5 21. "Misdemeanor" means an offense for which a sentence to a term of
6 imprisonment other than to the custody of the state department of corrections
7 is authorized by any law of this state.

8 22. "Narcotic drug" means narcotic drugs as defined by section 13-3401.

9 23. "Offense" or "public offense" means conduct for which a sentence to
10 a term of imprisonment or of a fine is provided by any law of the state in
11 which it occurred or by any law, regulation or ordinance of a political
12 subdivision of that state and, if the act occurred in a state other than this
13 state, it would be so punishable under the laws, regulations or ordinances of
14 this state or of a political subdivision of this state if the act had
15 occurred in this state.

16 24. "Omission" means the failure to perform an act as to which a duty
17 of performance is imposed by law.

18 25. "Peace officer" means any person vested by law with a duty to
19 maintain public order and make arrests.

20 26. "Person" means a human being and, as the context requires, an
21 enterprise, a public or private corporation, an unincorporated association, a
22 partnership, a firm, a society, a government, a governmental authority or an
23 individual or entity capable of holding a legal or beneficial interest in
24 property.

25 27. "Petty offense" means an offense for which a sentence of a fine
26 only is authorized by law.

27 28. "Physical force" means force used upon or directed toward the body
28 of another person and includes confinement, but does not include deadly
29 physical force.

30 29. "Physical injury" means the impairment of physical condition.

31 30. "Possess" means knowingly to have physical possession or otherwise
32 to exercise dominion or control over property.

33 31. "Possession" means a voluntary act if the defendant knowingly
34 exercised dominion or control over property.

35 32. "Property" means anything of value, tangible or intangible.

36 33. "Public servant":

37 (a) Means any officer or employee of any branch of government, whether
38 elected, appointed or otherwise employed, including a peace officer, and any
39 person participating as AN advisor, OR consultant or otherwise in performing
40 a governmental function. ~~The term~~

41 (b) Does not include jurors or witnesses. ~~Public servant~~

42 (c) Includes those who have been elected, appointed, employed or
43 designated to become a public servant although not yet occupying that
44 position.

1 34. "Serious physical injury" includes physical injury which creates a
2 reasonable risk of death, or which causes serious and permanent
3 disfigurement, serious impairment of health or loss or protracted impairment
4 of the function of any bodily organ or limb.

5 35. "Unlawful" means contrary to law or, where the context so requires,
6 not permitted by law.

7 36. "Vehicle" means a device in, upon or by which any person or
8 property is, ~~or~~ may be OR COULD HAVE BEEN transported or drawn upon a
9 highway, waterway or airway, excepting devices moved by human power or used
10 exclusively upon stationary rails or tracks.

11 37. "Voluntary act" means a bodily movement performed consciously and
12 as a result of effort and determination.

13 38. "Voluntary intoxication" means intoxication caused by the knowing
14 use of drugs, toxic vapors or intoxicating liquors by a person, the tendency
15 of which to cause intoxication the person knows or ought to know, unless the
16 person introduces them pursuant to medical advice or under such duress as
17 would afford a defense to an offense.

18 Sec. 2. Section 13-1802, Arizona Revised Statutes, is amended to read:

19 13-1802. Theft; classification

20 A. A person commits theft if, without lawful authority, the person
21 knowingly:

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

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

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

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

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

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

40 B. A person commits theft if the person knowingly takes control,
41 title, use or management of an incapacitated or vulnerable adult's assets or
42 property through intimidation or deception, as defined in section 46-456,
43 while acting in a position of trust and confidence and with the intent to
44 deprive the incapacitated or vulnerable adult of the asset or property.

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

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

7 E. Theft of property or services with a value of twenty-five thousand
8 dollars or more is a class 2 felony. Theft of property or services with a
9 value of three thousand dollars or more but less than twenty-five thousand
10 dollars is a class 3 felony. Theft of property or services with a value of
11 two thousand dollars or more but less than three thousand dollars is a class
12 4 felony, EXCEPT THAT THEFT OF ANY VEHICLE ENGINE OR TRANSMISSION IS A CLASS
13 4 FELONY REGARDLESS OF VALUE. Theft of property or services with a value of
14 one thousand dollars or more but less than two thousand dollars is a class 5
15 felony. Theft of property or services with a value of two hundred fifty
16 dollars or more but less than one thousand dollars is a class 6
17 felony. Theft of any property or services valued at less than two hundred
18 fifty dollars is a class 1 misdemeanor, unless such property is taken from
19 the person of another, ~~or~~ is a firearm or is a dog taken for the purpose of
20 dog fighting in violation of section 13-2910.01, in which case the theft is a
21 class 6 felony.

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

29 Sec. 3. Section 13-4702, Arizona Revised Statutes, is amended to read:
30 13-4702. Conducting a chop shop; exception; violation;
31 classification

32 A. A person shall not knowingly:

33 1. Own or operate a chop shop.

34 2. Transport a motor vehicle or motor vehicle part to or from a chop
35 shop.

36 3. Sell or transfer to or purchase or receive from a chop shop a motor
37 vehicle or motor vehicle part.

38 4. Remove, destroy, deface or otherwise alter a vehicle identification
39 number with the intent to misrepresent or prevent the identification of the
40 motor vehicle or motor vehicle part.

41 5. Buy, sell, transfer or possess a motor vehicle OR MOTOR VEHICLE
42 PART knowing that the motor vehicle identification number, WHICH WAS PLACED
43 ON THE MOTOR VEHICLE OR MOTOR VEHICLE PART BY THE MANUFACTURER, has been
44 removed, destroyed, defaced or otherwise altered.

1 B. This section does not apply to law enforcement authorities and
2 lawful owners acting in good faith, towing companies or scrap processors,
3 licensed automotive recyclers and other businesses acting in good faith and
4 in the normal course of business and in conformance with all applicable laws.

5 C. A person who violates subsection A, paragraph 1 of this section is
6 guilty of a class 2 felony. A person who violates subsection A, paragraph 2,
7 3, 4 or 5 of this section is guilty of a class 4 felony.

APPROVED BY THE GOVERNOR APRIL 10, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2006.