

House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

CHAPTER 163

SENATE BILL 1107

AN ACT

AMENDING SECTION 13-1802, ARIZONA REVISED STATUTES; RELATING TO THEFT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-1802, Arizona Revised Statutes, is amended to
3 read:

4 13-1802. Theft; classification; definitions

5 A. A person commits theft if, without lawful authority, the person
6 knowingly:

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

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

12 3. Obtains services or property of another by means of any material
13 misrepresentation with intent to deprive the other person of such property or
14 services; or

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

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

21 6. Obtains services known to the defendant to be available only for
22 compensation without paying or an agreement to pay the compensation or
23 diverts another's services to the person's own or another's benefit without
24 authority to do so; OR —

25 7. CONTROLS THE FERROUS METAL OR NONFERROUS METAL OF ANOTHER WITH THE
26 INTENT TO DEPRIVE THE OTHER PERSON OF THE METAL; OR

27 8. CONTROLS THE FERROUS METAL OR NONFERROUS METAL OF ANOTHER KNOWING
28 OR HAVING REASON TO KNOW THAT THE METAL WAS STOLEN; OR

29 9. PURCHASES WITHIN THE SCOPE OF THE ORDINARY COURSE OF BUSINESS THE
30 FERROUS METAL OR NONFERROUS METAL OF ANOTHER PERSON KNOWING THAT THE METAL
31 WAS STOLEN.

32 B. A person commits theft if, without lawful authority, the person
33 knowingly takes control, title, use or management of a vulnerable adult's
34 property while acting in a position of trust and confidence and with the
35 intent to deprive the vulnerable adult of the property. Proof that a person
36 took control, title, use or management of a vulnerable adult's property
37 without adequate consideration to the vulnerable adult may give rise to an
38 inference that the person intended to deprive the vulnerable adult of the
39 property.

40 C. It is an affirmative defense to any prosecution under subsection B
41 of this section that either:

42 1. The property was given as a gift consistent with a pattern of gift
43 giving to the person that existed before the adult became vulnerable.

1 2. The property was given as a gift consistent with a pattern of gift
2 giving to a class of individuals that existed before the adult became
3 vulnerable.

4 3. The superior court approved the transaction before the transaction
5 occurred.

6 D. The inferences set forth in section 13-2305 apply to any
7 prosecution under subsection A, paragraph 5 of this section.

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

12 F. Subsection B of this section does not apply to an agent who is
13 acting within the scope of the agent's duties as or on behalf of a health
14 care institution that is licensed pursuant to title 36, chapter 4 and that
15 provides services to the vulnerable adult.

16 G. Theft of property or services with a value of twenty-five thousand
17 dollars or more is a class 2 felony. Theft of property or services with a
18 value of four thousand dollars or more but less than twenty-five thousand
19 dollars is a class 3 felony. Theft of property or services with a value of
20 three thousand dollars or more but less than four thousand dollars is a class
21 4 felony, except that theft of any vehicle engine or transmission is a class
22 4 felony regardless of value. Theft of property or services with a value of
23 two thousand dollars or more but less than three thousand dollars is a class
24 5 felony. Theft of property or services with a value of one thousand dollars
25 or more but less than two thousand dollars is a class 6 felony. Theft of any
26 property or services valued at less than one thousand dollars is a class 1
27 misdemeanor, unless the property is taken from the person of another, is a
28 firearm or is an animal taken for the purpose of animal fighting in violation
29 of section 13-2910.01, in which case the theft is a class 6 felony.

30 H. A person who is convicted of a violation of subsection A, paragraph
31 1 or 3 of this section that involved property with a value of one hundred
32 thousand dollars or more is not eligible for suspension of sentence,
33 probation, pardon or release from confinement on any basis except pursuant to
34 section 31-233, subsection A or B until the sentence imposed by the court has
35 been served, the person is eligible for release pursuant to section
36 41-1604.07 or the sentence is commuted.

37 I. For the purposes of this section, the value of ferrous metal or
38 nonferrous metal includes the amount of any damage to the property of another
39 caused as a result of the theft of the metal.

40 J. In an action for theft of ferrous metal or nonferrous metal:

41 1. Unless satisfactorily explained or acquired in the ordinary course
42 of business by an automotive recycler as defined and licensed pursuant to
43 title 28, chapter 10 or by a scrap metal dealer as defined in section
44 44-1641, proof of possession of scrap metal that was recently stolen may give
45 rise to an inference that the person in possession of the scrap metal was

1 aware of the risk that it had been stolen or in some way participated in its
2 theft.

3 2. Unless satisfactorily explained or sold in the ordinary course of
4 business by an automotive recycler as defined and licensed pursuant to title
5 28, chapter 10 or by a scrap metal dealer as defined in section 44-1641,
6 proof of the sale of stolen scrap metal at a price substantially below its
7 fair market value may give rise to an inference that the person selling the
8 scrap metal was aware of the risk that it had been stolen.

9 K. For the purposes of this section:

10 1. "Adequate consideration" means the property was given to the person
11 as payment for bona fide goods or services provided by the person and the
12 payment was at a rate that was customary for similar goods or services in the
13 community that the vulnerable adult resided in at the time of the
14 transaction.

15 2. "Ferrous metal" and "nonferrous metal" have the same meanings
16 prescribed in section 44-1641.

17 3. "Pattern of gift giving" means two or more gifts that are the same
18 or similar in type and monetary value.

19 4. "Position of trust and confidence" has the same meaning prescribed
20 in section 46-456.

21 5. "Property" includes all forms of real property and personal
22 property.

23 6. "Vulnerable adult" has the same meaning prescribed in section
24 46-451.

APPROVED BY THE GOVERNOR APRIL 30, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2013.

Passed the House April 1, 2013,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate March 6, 2013,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this~~

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

~~Approved this _____ day of~~

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

S.B. 1107

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State~~

~~this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 22, 20 13

by the following vote: 27 Ayes,

1 Nays, 2 Not Voting

[Signature]
President of the Senate

Charmain Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

30 day of April, 20 13

at 9:27 o'clock A M.

Mikhaila Howard
Secretary to the Governor

Approved this 30th day of

April

at 2:00 o'clock P. M.

Janice H. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 15th day of May, 20 13

S.B. 1107

at 9:02 o'clock a M.

Jim Drake
Secretary of State