

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 89 & 37

91ST GENERAL ASSEMBLY

Reported from the Committee on Civil and Criminal Jurisprudence, February 8, 2001, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

0301S.02C

AN ACT

To repeal section 570.030, RSMo 2000, relating to crimes, and to enact in lieu thereof three new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 570.030, RSMo 2000, is repealed and three new sections enacted in lieu thereof, to be known as sections 537.297, 570.030 and 578.154, to read as follows:

537.297. 1. The following words as used in this section shall have the following meanings:

- (1) "Owner", all of the following persons:**
 - (a) Any person who lawfully owns anhydrous ammonia;**
 - (b) Any person who lawfully owns a container, equipment or storage facility containing anhydrous ammonia;**
 - (c) Any person responsible for the installation or operation of such containers, equipment or storage facilities;**
 - (d) Any person lawfully selling anhydrous ammonia;**
 - (e) Any person lawfully purchasing anhydrous ammonia for agricultural purposes;**
 - (f) Any person who operates or uses anhydrous ammonia containers, equipment or storage facilities when lawfully applying anhydrous ammonia for agricultural purposes;**
- (2) "Tamperer", a person who commits or assists in the commission of tampering,**

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

or is related to a person who commits or assists in the commission of tampering;

(3) "Tampering", transferring or attempting to transfer anhydrous ammonia from its present container, equipment or storage facility to another container, equipment or storage facility, without prior authorization from the owners.

2. A tamperer assumes the risk of any personal injury, death and other economic and noneconomic loss arising from his or her participation in the act of tampering. A tamperer shall not commence a direct or derivative action against any owner. Owners are immune from suit by a tamperer and shall not be held liable for any negligent act or omission which may cause personal injury, death or other economic or noneconomic loss to a tamperer.

3. The immunity from liability and suit authorized by this section is expressly waived for owners whose acts or omissions constitute willful or wanton negligence.

570.030. 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse.

3. Stealing is a class C felony if:

(1) The value of the property or services appropriated is seven hundred fifty dollars or more; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature

of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo.

4. If an actor appropriates any material with a value less than one hundred fifty dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia **or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen**, is a class [D]C felony. **The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.**

5. The theft of any item of property or services under subsection 3 of this section which exceeds seven hundred fifty dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

578.154. 1. A person commits the crime of possession of anhydrous ammonia in a nonapproved container if he or she possesses any quantity of anhydrous ammonia in any container other than a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator.

2. A violation of this section is a class D felony.