

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 318

AN ACT

To repeal sections 569.170 and 570.030, RSMo, and to enact in lieu thereof three new sections relating to offenses involving property, with penalty provisions.

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

Section A. Sections 569.170 and 570.030, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 569.151, 569.170, and 570.030, to read as follows:

569.151. 1. A person commits the offense of trespass in the third degree if he or she enters a retail establishment or similar public place with the primary purpose of:

(1) Engaging in tumultuous or violent conduct causing damage to property;

(2) Disrupting lawful commerce in such retail establishment or similar public place;

(3) Creating the danger of serious physical injury to persons; or

(4) Threatening or adversely affecting the health or physical well-being of any individual located in or around such retail establishment or similar public place.

2. A person commits the offense of trespass in the third degree if he or she, either individually or as part of an organized campaign, sponsors, promotes, or assists in the conduct made unlawful under subsection 1 of this section.

3. The offense of trespass in the third degree is a class B misdemeanor. If it is shown that an organized campaign sponsored, promoted, or assisted in any conduct in

violation of this section, in addition to the penalty imposed under this section, the organized campaign may be required to pay a civil fine not to exceed five thousand dollars.

569.170. 1. A person commits the offense of burglary in the second degree when he or she knowingly enters unlawfully or knowingly remains unlawfully in:

(1) A building or inhabitable structure for the purpose of committing a crime therein; or

(2) A restricted area of a commercial business for the purpose of committing a crime and the restricted area is:

(a) Commonly reserved for personnel of the commercial business where money or other property is kept; or

(b) Clearly marked with a sign or signs that indicate to the public that entry is forbidden.

2. (1) The offense of burglary in the second degree committed under subdivision (1) of subsection 1 of this section is a class D felony.

(2) The offense of burglary in the second degree committed under subdivision (2) of subsection 1 of this section is a class B misdemeanor unless committed as a second or subsequent violation of subdivision (2) of subsection 1 of this section in which case it is a class A misdemeanor.

570.030. 1. A person commits the offense of stealing if he or she:

(1) 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) Attempts to appropriate anhydrous ammonia or liquid nitrogen of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion; or

(3) For the purpose of depriving the owner of a lawful interest therein, receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

2. The offense of stealing is a class A felony if the property appropriated consists of any of the following containing any amount of anhydrous ammonia: a tank truck, tank trailer, rail tank car, bulk storage tank, field nurse, field tank or field applicator.

3. The offense of stealing is a class B felony if:

(1) The property appropriated or attempted to be appropriated consists of any amount of anhydrous ammonia or liquid nitrogen;

(2) The property consists of any animal considered livestock as the term livestock is defined in section 144.010, or any captive wildlife held under permit issued by the conservation commission, and the value of the animal or animals appropriated exceeds three thousand dollars and that person has previously been found guilty of appropriating any animal considered livestock or captive wildlife held under permit issued by the conservation commission.

Notwithstanding any provision of law to the contrary, such person shall serve a minimum prison term of not less than eighty percent of his or her sentence before he or she is eligible for probation, parole, conditional release, or other early release by the department of corrections;

(3) A person appropriates property consisting of a motor vehicle, watercraft, or aircraft, and that person has previously been found guilty of two stealing-related offenses committed on two separate occasions where such offenses occurred within ten years of the date of occurrence of the present offense;

(4) The property appropriated or attempted to be appropriated consists of any animal considered livestock as the term is defined in section 144.010 if the value of the livestock exceeds ten thousand dollars; ~~[or]~~

(5) The property appropriated or attempted to be appropriated is owned by or in the custody of a financial institution and the property is taken or attempted to be taken physically from an individual person to deprive the owner or custodian of the property; or

(6) The person appropriates property, the person's course of conduct is part of an organized retail theft, and the value of the property taken, combined with any property damage inflicted in such theft, is ten thousand dollars or more.

4. The offense of stealing is a class C felony if:

(1) The value of the property or services appropriated is twenty-five thousand dollars or more; or

(2) The property is a teller machine or the contents of a teller machine, including cash, regardless of the value or amount; or

(3) The person appropriates property, the person's course of conduct is part of an organized retail theft, and the value of the property taken, combined with any property damage inflicted in such theft, is seven hundred fifty dollars or more but less than ten thousand dollars.

5. The offense of stealing is a class D felony if:

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

(2) The offender 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;

- (b) Any will or unrecorded deed affecting real property;
- (c) Any credit device, debit device or letter of credit;
- (d) Any firearms;
- (e) Any explosive weapon as defined in section 571.010;
- (f) Any United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open;
- (g) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri;
- (h) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States;
- (i) Any book of registration or list of voters required by chapter 115;
- (j) Any animal considered livestock as that term is defined in section 144.010;
- (k) Any live fish raised for commercial sale with a value of seventy-five dollars or more;
- (l) Any captive wildlife held under permit issued by the conservation commission;
- (m) Any controlled substance as defined by section 195.010;
- (n) Ammonium nitrate;
- (o) Any wire, electrical transformer, or metallic wire associated with transmitting telecommunications, video, internet, or voice over internet protocol service, or any other device or pipe that is associated with conducting electricity or transporting natural gas or other combustible fuels; or

(p) Any material appropriated with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues.

6. The offense of stealing is a class E felony if:

(1) The property appropriated is an animal;

(2) The property is a catalytic converter;

(3) A person has previously been found guilty of three stealing-related offenses committed on three separate occasions where such offenses occurred within ten years of the date of occurrence of the present offense; or

(4) The property appropriated is a letter, postal card, package, bag, or other sealed article that was delivered by a common carrier or delivery service and not yet received by the addressee or that had been left to be collected for shipment by a common carrier or delivery service.

7. The offense of stealing is a class D misdemeanor if the property is not of a type listed in subsection 2, 3, 5, or 6 of this section, the property appropriated has a value of less than one hundred fifty dollars, and the person has no previous findings of guilt for a stealing-related offense.

8. The offense of stealing is a class A misdemeanor if no other penalty is specified in this section.

9. If a violation of this section is subject to enhanced punishment based on prior findings of guilt, such findings of guilt shall be pleaded and proven in the same manner as required by section 558.021.

10. The appropriation of any property or services of a type listed in subsection 2, 3, 5, or 6 of this section or of a value of seven hundred fifty dollars or more may be considered a separate felony and may be charged in separate counts.

11. The value of property or services appropriated pursuant to one scheme or course of conduct, whether from the same or several owners and whether at the same or different times, constitutes a single criminal episode and may be aggregated in determining the grade of the offense, except as set forth in subsection 10 of this section.

12. As used in this section, the term "organized retail theft" means:

(1) Any act of stealing committed by one or more persons, as part of any agreement to steal such property from any business, and separate acts of stealing which are part of any ongoing agreement to steal may be aggregated for the purpose of determining value regardless of whether such acts are committed in the same jurisdiction or at the same time;

(2) Any act of receiving or possessing any property that has been taken or stolen in violation of subdivision (1) of this subsection while knowing or having reasonable grounds to believe the property is stolen from any business in violation of this section and separate acts of receiving or possessing such stolen property which are part of any ongoing agreement to receive or possess such stolen property may be aggregated for the purpose of determining value regardless of whether such acts are committed in the same jurisdiction or at the same time; or

(3) Any act of organizing, supervising, financing, leading, or managing between one or more persons to engage for profit in a scheme or course of conduct to effectuate or intend to effectuate the transfer or sale of property stolen from any business in violation of this section and separate acts of organizing, supervising, financing, leading, or managing between one or more persons to engage for profit in a scheme or course of conduct to effectuate or intend to

effectuate the transfer or sale of such stolen property which are part of any ongoing agreement to organize, supervise, finance, lead, or manage between one or more persons to engage for profit in a scheme or course of conduct to effectuate or intend to effectuate the transfer or sale of such stolen property may be aggregated for the purpose of determining value regardless of whether such acts are committed in the same jurisdiction or at the same time.

13. If any prosecuting attorney or circuit attorney makes a request in writing to the attorney general, the attorney general shall have the authority to commence and prosecute the offense of stealing if such offense involves organized retail theft, and any other offenses that directly arises from or causally occurs as a result of an alleged violation of the offense of stealing involving organized retail theft, in each or any county or a city not within a county in which the offense occurred with the same power and authority granted to prosecuting attorneys in section 56.060 and circuit attorneys in section 56.450, except that all costs and fees of such prosecution by the attorney general shall be paid by the state and not by any county or local government.

14. No provision of this section shall grant any additional power to the attorney general beyond commencement and prosecution of offenses as authorized in this section.