

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

**SENATE BILLS NOS. 646, 573,
527, 493, 575, 546, 663 & 904**
89TH GENERAL ASSEMBLY

Reported from the Committee on Civil and Criminal Jurisprudence, March 12, 1998, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

S2469.04C

AN ACT

To repeal sections 565.082 and 575.010, RSMo 1994, relating to crimes and punishment, by adding thereto eleven 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Section A. Sections 565.082 and 575.010, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 306.105, 565.082, 570.103, 570.105, 574.095, 575.010, 575.335, 575.337, 575.530, 577.068 and 1, to read as follows:

306.105. 1. A person commits the crime of unauthorized jumping from a boat if the person jumps or dives from a commercial passenger boat without permission of the operator of the boat.

2. Unauthorized jumping from a boat is a class C misdemeanor.

565.082. 1. A person commits the crime of assault of a law enforcement officer in the second degree if [he] **such person:**

(1) Attempts to cause or knowingly causes physical injury to a law enforcement officer by means of a deadly weapon or dangerous instrument;

(2) Recklessly causes serious physical injury to a law enforcement officer; [or]

(3) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle in this state and when so operating, acts with criminal negligence to cause physical injury to a law enforcement officer[.]; **or**

(4) Knowingly attempts, by means of force, to take any deadly weapon or

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

dangerous instrument from the possession of a law enforcement officer.

2. Assault of a law enforcement officer in the second degree is a class B felony.

570.103. 1. As used in sections 570.103 and 570.105, the following words mean:

(1) "Counterfeit mark", any unauthorized reproduction or copy of intellectual property or intellectual property affixed to any item knowingly sold, offered for sale, manufactured, or distributed, or identifying services offered or rendered, without the authority of the owner of the intellectual property;

(2) "Intellectual property", any trademark, service mark, trade name, label, term, device, design, or word adopted or used by a person to identify such person's goods or services;

(3) "Retail value", the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

2. Any person who willfully manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute any item, or services, bearing or identified by a counterfeit mark, shall be guilty of the crime of counterfeiting. A person having possession, custody or control of more than twenty-five items bearing a counterfeit mark shall be presumed to possess said items with intent to sell or distribute.

3. Counterfeiting shall be a class A misdemeanor, except as provided in subsections 4 and 5 of this section.

4. Counterfeiting shall be a class D felony if:

(1) The defendant has previously been convicted under this section; or

(2) The violation involves more than one hundred but fewer than one thousand items bearing a counterfeit mark or the total retail value of all items bearing, or services identified by, a counterfeit mark is more than one thousand dollars, but less than ten thousand dollars.

5. Counterfeiting shall be a class C felony if:

(1) The defendant has been previously convicted of two or more offenses under this section;

(2) The violation involves the manufacture or production of items bearing counterfeit marks; or

(3) The violation involves one thousand or more items bearing a counterfeit mark or the total retail value of all items bearing, or services identified by, a counterfeit mark is more than ten thousand dollars.

6. For purposes of this section, the quantity or retail value of items or services

shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses.

7. Any person convicted of counterfeiting shall be fined an amount up to three times the retail value of the items bearing, or services identified by, a counterfeit mark, unless extenuating circumstances are shown by the defendant.

8. The remedies provided for herein shall be cumulative to the other civil remedies provided by law.

9. Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

570.105. 1. Any items bearing a counterfeit mark, and all personal property, including but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, employed or used in connection with a violation of section 570.103 or this section shall be seized by any law enforcement officer. All seized personal property shall be forfeited in accordance with section 513.600, et seq.

2. Upon the request of the intellectual property owner, all seized items bearing a counterfeit mark shall be released to the intellectual property owner for destruction or disposition. If the intellectual property owner does not request release of seized items bearing a counterfeit mark, such items shall be destroyed unless the intellectual property owner consents to another disposition.

574.095. 1. As used in this section, the term "sports official" means any referee, umpire or person serving in a similar capacity who:

(1) Registers with or belongs to a local, regional or national organization which provides education and training to referees and umpires; or

(2) Serves as a volunteer.

2. A person commits the crime of intimidation of an athletic coach, manager or sports official if he violates subsection 1 of section 565.070, RSMo, or subdivision (1) of subsection 1 of section 565.090, RSMo, and the violation is motivated by the individual's status as an athletic coach, manager or sports official.

3. Intimidation of an athletic coach, manager or sports official is a class D felony.

575.010. The following definitions shall apply to chapters 575 and 576, RSMo:

(1) "Affidavit" means any written statement which is authorized or required by law to be made under oath, and which is sworn to before a person authorized to administer oaths;

(2) "Government" means any branch or agency of the government of this state or of any political subdivision thereof;

(3) "Judicial proceeding" means any official proceeding in court, or any proceeding authorized by or held under the supervision of a court;

(4) "Juror" means a grand or petit juror, including a person who has been drawn or summoned to attend as a prospective juror;

(5) "Jury" means a grand or petit jury, including any panel which has been drawn or summoned to attend as prospective jurors;

(6) "Official proceeding" means any cause, matter, or proceeding where the laws of this state require that evidence considered therein be under oath or affirmation;

(7) "Police animal" means a dog, horse or other animal used in law enforcement or a correctional facility, or by a municipal police department, fire department, search and rescue unit or agency, whether the animal is on duty or not on duty. The term shall include, but not be limited to, accelerant detection dogs, bomb detection dogs, narcotic detection dogs, search and rescue dogs and tracking animals;

[(7)] **(8)** "Public record" means any document which a public servant is required by law to keep;

[(8)] **(9)** "Testimony" means any oral statement under oath or affirmation;

[(9)] **(10)** "Victim" means any natural person against whom any crime is deemed to have been perpetrated or attempted;

[(10)] **(11)** "Witness" means any natural person:

(a) Having knowledge of the existence or nonexistence of facts relating to any crime; or

(b) Whose declaration under oath is received as evidence for any purpose; or

(c) Who has reported any crime to any peace officer or prosecutor; or

(d) Who has been served with a subpoena issued under the authority of any court of this state.

575.335. 1. A person commits the crime of killing a police animal when such person knowingly causes the death of a police animal when that animal is involved in a law enforcement investigation, apprehension, tracking, or search and rescue, or the animal is in the custody of or under the control of a law enforcement officer, department of corrections officer, municipal police department, fire department and a rescue unit or agency.

2. Killing a police animal is a class D felony.

575.337. 1. A person commits the crime of assault on a police animal when such person knowingly attempts to kill or knowingly causes or attempts to cause serious physical injury to a police animal when that animal is involved in law enforcement investigation, apprehension, tracking, or search, or the animal is in the custody of or under the control of a law enforcement officer, department of corrections officer, municipal police department, fire department or a rescue unit or agency.

2. Assault on a police animal is a class D felony.

575.530. 1. A person is guilty of evading a peace officer if such person:

(1) Is operating a motor vehicle;

- (2) Is directed to bring the motor vehicle to a stop by:**
- (a) A verbal direction of a peace officer;**
 - (b) The activation of emergency lights or siren or both of a police vehicle; or**
 - (c) A peace officer conducted roadblock; and**
- (3) Takes deliberate actions to avoid being stopped by a peace officer.**

2. Evading a peace officer is a class C felony if:

- (1) The purpose of the evasion is to avoid the detection of a felony act;**
- (2) The purpose of the evasion is to avoid a felony arrest;**
- (3) In the act of evasion, such person causes property damage to another;**
- (4) In the act of evasion, such person causes physical injury to another person;**
- (5) In the act of evasion, such person commits three or more traffic violations;**
- (6) Such person has one or more prior convictions for evading a peace officer;**

or

(7) Such evasion is committed in an intoxicated condition or under the influence of a controlled substance.

3. Evading a peace officer is a class A misdemeanor if:

- (1) The purpose of the evasion is to avoid the detection of a misdemeanor act;**

or

- (2) The purpose of the evasion is to avoid a misdemeanor arrest.**

577.068. 1. A person commits the crime of leaving the scene of a shooting when, being in possession of a firearm or projectile weapon as defined in section 571.010, RSMo, such person discharges such firearm or projectile weapon and causes injury or death to another person and such person, knowing that he has caused such injury or death, leaves the place of the shooting without giving his name, address, and driver's license number, if applicable, to a law enforcement officer. If no such officer is in the vicinity where the shooting occurs, the person must provide such information to the nearest police station or law enforcement officer. A person is not in violation of this section if he leaves the scene of a shooting in order to obtain medical assistance or contact law enforcement authorities to notify them of the shooting, so long as such person returns to the scene of the shooting or otherwise provides the information required by this section to a law enforcement officer within a reasonable time after the shooting.

2. All peace officers and reserve peace officers certified under the provisions of chapter 590, RSMo, shall have authority to investigate shootings and arrest a person who violates subsection 1 of this section, except that conservation agents may enforce such provisions as to hunting related shootings. For the purpose of this section, a hunting related shooting shall be defined as any shooting in which a person is injured as a result of hunting activity that involves the discharge of a hunting weapon.

3. Leaving the scene of a shooting is a class A misdemeanor, except that it is a class D felony if the person has previously pled guilty to or been found guilty of a violation of this section.

Section 1. 1. As used in this section, the following terms mean:

(1) "Body piercing", the perforation of human tissue other than an ear for a nonmedical purpose;

(2) "Branding", a permanent mark made on human tissue by burning with a hot iron or other instrument;

(3) "Controlled substance", any substance defined in section 195.010, RSMo;

(4) "Minor", a person under the age of eighteen;

(5) "Tattoo", one or more of the following:

(a) An indelible mark made on the body of another person by the insertion of a pigment under the skin; or

(b) An indelible design made on the body of another person by production of scars other than by branding.

2. No person shall tattoo, brand or perform body piercing on a minor unless such person obtains the prior written informed consent of the minor's parent or legal guardian. The minor's parent or legal guardian shall execute the written informed consent required pursuant to this subsection in the presence of the person performing the tattooing, branding or body piercing on the minor, or in the presence of an employee or agent of such person.

3. A person shall not tattoo, brand or perform body piercing on another person if the other person is under the influence of intoxicating liquor or a controlled substance.

4. A person who violates this section is guilty of a misdemeanor and shall be fined not more than five hundred dollars. If there is a subsequent violation of this section within one year of the initial violation, such person shall be fined not less than five hundred dollars or more than one thousand dollars.

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