

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 94
90TH GENERAL ASSEMBLY

Reported from the Committee on Civil and Criminal Jurisprudence, April 1, 1999, with recommendation that the Senate Committee Substitute do pass.

S0140.06C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 191.905, 252.235, 569.095, 569.097, 569.099, 570.020, 570.080, 570.085, 570.120, 570.125, 570.130, 570.210, 570.300, 578.150, 578.377, 578.379, 578.381 and 578.385, RSMo 1994, and section 570.030, RSMo Supp. 1998, relating to the felony limit for certain crimes, and to enact in lieu thereof nineteen new sections relating to the same subject.

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

Section A. Sections 191.905, 252.235, 569.095, 569.097, 569.099, 570.020, 570.080, 570.085, 570.120, 570.125, 570.130, 570.210, 570.300, 578.150, 578.377, 578.379, 578.381 and 578.385, RSMo 1994, and section 570.030, RSMo Supp. 1998, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 191.905, 252.235, 569.095, 569.097, 569.099, 570.020, 570.030, 570.080, 570.085, 570.120, 570.125, 570.130, 570.210, 570.300, 578.150, 578.377, 578.379, 578.381 and 578.385, to read as follows:

191.905. 1. No health care provider shall knowingly make or cause to be made a false statement or false representation of a material fact in order to receive a health care payment, including but not limited to:

(1) Knowingly presenting to a health care payer a claim for a health care payment that falsely represents that the health care for which the health care payment is claimed was medically necessary, if in fact it was not;

(2) Knowingly concealing the occurrence of any event affecting an initial or continued right under a medical assistance program to have a health care payment made by a health care payer for providing health care;

(3) Knowingly concealing or failing to disclose any information with the intent to obtain

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

a health care payment to which the health care provider or any other health care provider is not entitled, or to obtain a health care payment in an amount greater than that which the health care provider or any other health care provider is entitled;

(4) Knowingly presenting a claim to a health care payer that falsely indicates that any particular health care was provided to a person or persons, if in fact health care of lesser value than that described in the claim was provided.

2. No person shall knowingly solicit or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind in return for:

(1) Referring another person to a health care provider for the furnishing or arranging for the furnishing of any health care; or

(2) Purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering any health care.

3. No person shall knowingly offer or pay any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, to any person to induce such person to refer another person to a health care provider for the furnishing or arranging for the furnishing of any health care.

4. Subsections 2 and 3 of this section shall not apply to a discount or other reduction in price obtained by a health care provider if the reduction in price is properly disclosed and appropriately reflected in the claim made by the health care provider to the health care payer, or any amount paid by an employer to an employee for employment in the provision of health care.

5. Exceptions to the provisions of subsections 2 and 3 of this subsection shall be provided for as authorized in 42 U.S.C. section 1320a-7b(3)(E), as may be from time to time amended, and regulations promulgated pursuant thereto.

6. No person shall knowingly abuse a person receiving health care.

7. A person who violates subsections 1 to 4 of this section is guilty of a class D felony upon his first conviction, and shall be guilty of a class C felony upon his second and subsequent convictions. A prior conviction shall be pleaded and proven as provided by section 558.021, RSMo. A person who violates subsection 6 of this section shall be guilty of a class C felony, unless the act involves no physical, sexual or emotional harm or injury and the value of the property involved is less than [one hundred fifty] **five hundred** dollars, in which event a violation of subsection 6 of this section is a class A misdemeanor.

8. Each separate false statement or false representation of a material fact proscribed by subsection 1 of this section or act proscribed by subsection 2 or 3 of this section shall constitute a separate offense and a separate violation of this section, whether or not made at the same or different times, as part of the same or separate episodes, as part of the same scheme or course of conduct, or as part of the same claim.

9. In a prosecution under subsection 1 of this section, circumstantial evidence may be

presented to demonstrate that a false statement or claim was knowingly made. Such evidence of knowledge may include but shall not be limited to the following:

(1) A claim for a health care payment submitted with the health care provider's actual, facsimile, stamped, typewritten or similar signature on the claim for health care payment;

(2) A claim for a health care payment submitted by means of computer billing tapes or other electronic means;

(3) A course of conduct involving other false claims submitted to this or any other health care payer.

10. Any person convicted of a violation of this section, in addition to any fines, penalties or sentences imposed by law, shall be required to make restitution to the federal and state governments, in an amount at least equal to that unlawfully paid to or by the person, and shall be required to reimburse the reasonable costs attributable to the investigation and prosecution pursuant to sections 191.900 to 191.910. All of such restitution shall be paid and deposited to the credit of the "Medicaid Fraud Reimbursement Fund", which is hereby established in the state treasury. Moneys in the medicaid fraud reimbursement fund shall be divided and appropriated to the federal government and affected state agencies in order to refund moneys falsely obtained from the federal and state governments. All of such cost reimbursements attributable to the investigation and prosecution shall be paid and deposited to the credit of the "Medicaid Fraud Prosecution Revolving Fund", which is hereby established in the state treasury. Moneys in the medicaid fraud prosecution revolving fund may be appropriated to the attorney general, or to any prosecuting or circuit attorney who has successfully prosecuted an action for a violation of sections 191.900 to 191.910 and been awarded such costs of prosecution, in order to defray the costs of the attorney general and any such prosecuting or circuit attorney in connection with their duties provided by sections 191.900 to 191.910. No moneys shall be paid into the medicaid fraud protection revolving fund pursuant to this subsection unless the attorney general or appropriate prosecuting or circuit attorney shall have commenced a prosecution pursuant to this section, and the court finds in its discretion that payment of attorneys' fees and investigative costs is appropriate under all the circumstances, and the attorney general and prosecuting or circuit attorney shall prove to the court those expenses which were reasonable and necessary to the investigation and prosecution of such case, and the court approves such expenses as being reasonable and necessary. The provisions of section 33.080, RSMo, notwithstanding, moneys in the medicaid fraud prosecution revolving fund shall not lapse at the end of the biennium.

11. A person who violates subsections 1 to 4 of this section shall be liable for a civil penalty of not less than five thousand dollars and not more than ten thousand dollars for each separate act in violation of such subsections, plus three times the amount of damages which the state and federal government sustained because of the act of that person, except that the court may assess not more than two times the amount of damages which the state and federal government

sustained because of the act of the person, if the court finds:

(1) The person committing the violation of this section furnished personnel employed by the attorney general and responsible for investigating violations of sections 191.900 to 191.910 with all information known to such person about the violation within thirty days after the date on which the defendant first obtained the information;

(2) Such person fully cooperated with any government investigation of such violation; and

(3) At the time such person furnished the personnel of the attorney general with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

12. Upon conviction under this section, the prosecution authority shall provide written notification of the conviction to all regulatory or disciplinary agencies with authority over the conduct of the defendant health care provider.

13. The attorney general may bring a civil action against any person who shall receive a health care payment as a result of a false statement or false representation of a material fact made or caused to be made by that person. The person shall be liable for up to double the amount of all payments received by that person based upon the false statement or false representation of a material fact, and the reasonable costs attributable to the prosecution of the civil action. All such restitution shall be paid and deposited to the credit of the medicaid fraud reimbursement fund, and all such cost reimbursements shall be paid and deposited to the credit of the medicaid fraud prosecution revolving fund. No reimbursement of such costs attributable to the prosecution of the civil action shall be made or allowed except with the approval of the court having jurisdiction of the civil action. No civil action provided by this subsection shall be brought if restitution and civil penalties provided by subsections 10 and 11 of this section have been previously ordered against the person for the same cause of action.

252.235. The sale, taking for sale or possession for sale of any species of fish or wildlife, or parts thereof, which shall include eggs, which have been taken or possessed in violation of the rules and regulations of the commission, is prohibited. Any person violating the provisions of this section shall be guilty of a class A misdemeanor for the first offense if the sale amounts to less than [one hundred fifty] **five hundred** dollars. Any person violating the provisions of this section shall be guilty of a class D felony for the second and subsequent offense if the sale amounts to less than [one hundred fifty] **five hundred** dollars. Any person violating the provisions of this section shall be guilty of a class C felony for the first and all subsequent offenses if the sale amounts to more than [one hundred fifty] **five hundred** dollars. "Sale" means the exchange of an amount of money, other negotiable instruments, or property of value received by the person or persons selling the prohibited species. "Sale", for purposes of this section, shall also mean the intention to exchange an amount of money, other negotiable instruments or property of value for a

prohibited species. For the purposes of this section "property" is defined by section 570.010, RSMo, and value shall be ascertained as set forth in section 570.020, RSMo.

569.095. 1. A person commits the crime of tampering with computer data if he knowingly and without authorization or without reasonable grounds to believe that he has such authorization:

(1) Modifies or destroys data or programs residing or existing internal to a computer, computer system, or computer network; or

(2) Modifies or destroys data or programs or supporting documentation residing or existing external to a computer, computer system, or computer network; or

(3) Discloses or takes data, programs, or supporting documentation, residing or existing internal or external to a computer, computer system, or computer network; or

(4) Discloses or takes a password, identifying code, personal identification number, or other confidential information about a computer system or network that is intended to or does control access to the computer system or network;

(5) Accesses a computer, a computer system, or a computer network, and intentionally examines information about another person;

(6) Receives, retains, uses, or discloses any data he knows or believes was obtained in violation of this subsection.

2. Tampering with computer data is a class A misdemeanor, unless the offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property, the value of which is [one hundred fifty] **five hundred** dollars or more, in which case tampering with computer data is a class D felony.

569.097. 1. A person commits the crime of tampering with computer equipment if he knowingly and without authorization or without reasonable grounds to believe that he has such authorization:

(1) Modifies, destroys, damages, or takes equipment or data storage devices used or intended to be used in a computer, computer system, or computer network; or

(2) Modifies, destroys, damages, or takes any computer, computer system, or computer network.

2. Tampering with computer equipment is a class A misdemeanor, unless:

(1) The offense is committed for the purpose of executing any scheme or artifice to defraud or obtain any property, the value of which is [one hundred fifty] **five hundred** dollars or more, in which case it is a class D felony; or

(2) The damage to such computer equipment or to the computer, computer system, or computer network is [one hundred fifty] **five hundred** dollars or more but less than one thousand dollars, in which case it is a class D felony; or

(3) The damage to such computer equipment or to the computer, computer system, or

computer network is one thousand dollars or greater, in which case it is a class C felony.

569.099. 1. A person commits the crime of tampering with computer users if he knowingly and without authorization or without reasonable grounds to believe that he has such authorization:

(1) Accesses or causes to be accessed any computer, computer system, or computer network; or

(2) Denies or causes the denial of computer system services to an authorized user of such computer system services, which, in whole or in part, is owned by, under contract to, or operated for, or on behalf of, or in conjunction with another.

2. The offense of tampering with computer users is a class A misdemeanor unless the offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property, the value of which is [one hundred fifty] **five hundred** dollars or more, in which case tampering with computer users is a class D felony.

570.020. For the purposes of this chapter, the value of property shall be ascertained as follows:

(1) Except as otherwise specified in this section, "value" means the market value of the property at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the crime;

(2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities, shall be evaluated as follows:

(a) The value of an instrument constituting evidence of debt, such as a check, draft or promissory note, shall be deemed the amount due or collectible thereon or thereby, such figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument;

(3) When the value of property cannot be satisfactorily ascertained pursuant to the standards set forth in subdivisions (1) and (2) of this section, its value shall be deemed to be an amount less than [one hundred fifty] **five hundred** dollars.

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] **five hundred** 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] **five hundred** 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 is a class D felony.

5. The theft of any item of property or services under subsection 3 of this section which exceeds [seven hundred fifty] **five hundred** 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.

570.080. 1. A person commits the crime of receiving stolen property if for the purpose of depriving the owner of a lawful interest therein, he receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

2. Evidence of the following is admissible in any criminal prosecution under this section to prove the requisite knowledge or belief of the alleged receiver:

(1) That he was found in possession or control of other property stolen on separate occasions from two or more persons;

(2) That he received other stolen property in another transaction within the year preceding the transaction charged;

(3) That he acquired the stolen property for a consideration which he knew was far below its reasonable value.

3. Receiving stolen property is a class A misdemeanor unless the property involved has a value of [one hundred fifty] **five hundred** dollars or more, or the person receiving the property is a dealer in goods of the type in question, in which cases receiving stolen property is a class C felony.

570.085. 1. A person commits the crime of alteration or removal of item numbers if he, with the purpose of depriving the owner of a lawful interest therein:

(1) Destroys, removes, covers, conceals, alters, defaces, or causes to be destroyed, removed, covered, concealed, altered, or defaced, the manufacturer's original serial number or other distinguishing owner-applied number or mark, on any item which bears a serial number attached by the manufacturer or distinguishing number or mark applied by the owner of the item, for any reason whatsoever;

(2) Sells, offers for sale, pawns or uses as security for a loan, any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered, or defaced; or

(3) Buys, receives as security for a loan or in pawn, or in any manner receives or has in his possession any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered, or defaced.

2. Alteration or removal of item numbers is a class D felony if the value of the item or items in the aggregate is [one hundred fifty] **five hundred** dollars or more. If the value of the item or items in the aggregate is less than [one hundred fifty] **five hundred** dollars, then it is a class B misdemeanor.

570.120. 1. A person commits the crime of passing a bad check when:

(1) With purpose to defraud, he makes, issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee; or

(2) He makes, issues, or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in his account or that there is no such account or no drawee and fails to pay the check or sight order within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

2. As used in subdivision (2) of subsection 1 of this section, actual notice in writing means notice of the nonpayment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten-day period during which the instrument may be paid and that payment of the instrument within such ten-day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

3. The face amounts of any bad checks passed pursuant to one course of conduct within any ten-day period may be aggregated in determining the grade of the offense.

4. Passing bad checks is a class A misdemeanor, unless:

(1) The face amount of the check or sight order or the aggregated amounts is [one hundred fifty] **five hundred** dollars or more; or

(2) The issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, in which cases passing bad checks is a class D felony.

5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action under the provisions of this section shall collect from the issuer in such action an administrative handling cost. The cost shall be five dollars for checks of less than ten dollars, ten dollars for checks of ten dollars but less than one hundred dollars, and twenty-five dollars for checks of one hundred dollars or more. Notwithstanding the provisions of sections 50.525 to 50.745, RSMo, the costs provided for in this subsection shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that previously authorized in this section. Any revenues that are not required for the purposes of this section may be placed in the general revenue fund of the county or city not within a county.

(2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney

for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial and witness preparation, additional employees for the staff of the prosecuting or circuit attorney and employees' salaries.

(3) This fund may be audited by the state auditor's office or the appropriate auditing agency.

(4) If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year.

6. Notwithstanding any other provisions of law to the contrary, in addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may, in his discretion, collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check shall be turned over to the party to whom the bad check was issued. If the prosecuting attorney or circuit attorney does not collect the service charge and the face amount of the check, the party to whom the check was issued may collect from the issuer a reasonable service charge along with the face amount of the check.

7. In all cases where a prosecutor receives notice from the original holder that a person has violated this section with respect to a payroll check or order, the prosecutor, if he determines there is a violation of this section, shall file an information or seek an indictment within sixty days of such notice and may file an information or seek an indictment thereafter if the prosecutor has failed through neglect or mistake to do so within sixty days of such notice and if he determines there is sufficient evidence shall further prosecute such cases.

8. When any financial institution returns a dishonored check to the person who deposited such check, it shall be in substantially the same physical condition as when deposited, or in such condition as to provide the person who deposited the check the information required to identify the person who wrote the check.

570.125. 1. A person commits the crime of "fraudulently stopping payment of an instrument" if he, knowingly, with the purpose to defraud, stops payment on a check or draft given in payment for the receipt of goods or services.

2. Fraudulently stopping payment of an instrument is a class A misdemeanor, unless the face amount of the check or draft is [one hundred fifty] **five hundred** dollars or more or, if the stopping of payment of more than one check or draft is involved in the same course of conduct, the aggregate amount is [one hundred fifty] **five hundred** dollars or more, in which case the offense is a class D felony.

3. It shall be prima facie evidence of a violation of this section, if a person stops payment on a check or draft and fails to make good the check or draft, or return or make and comply with reasonable arrangements to return the property for which the check or draft was given in the

same or substantially the same condition as when received within ten days after notice in writing from the payee that the check or draft has not been paid because of a stop payment order by the issuer to the drawee.

4. "Notice in writing" means notice deposited as certified or registered mail in the United States mail and addressed to the issuer at his address as it appears on the dishonored check or draft or to his last known address. The notice shall contain a statement that failure to make good the check or draft within ten days of receipt of the notice may subject the issuer to criminal prosecution.

570.130. 1. A person commits the crime of fraudulent use of a credit device if he uses a credit device for the purpose of obtaining services or property, knowing that:

- (1) The device is stolen, fictitious or forged; or
- (2) The device has been revoked or canceled; or
- (3) For any other reason his use of the device is unauthorized.

2. Fraudulent use of a credit device is a class A misdemeanor unless the value of the property or services obtained or sought to be obtained within any thirty-day period is [one hundred fifty] **five hundred** dollars or more, in which case fraudulent use of a credit device is a class D felony.

570.210. 1. A person commits the crime of library theft if with the purpose to deprive, he:

(1) Knowingly removes any library material from the premises of a library without authorization; or

(2) Borrows or attempts to borrow any library material from a library by use of a library card:

- (a) Without the consent of the person to whom it was issued; or
- (b) Knowing that the library card is revoked, canceled or expired; or
- (c) Knowing that the library card is falsely made, counterfeit or materially altered; or

(3) Borrows library material from any library pursuant to an agreement or procedure established by the library which requires the return of such library material and, with the purpose to deprive the library of the library material, fails to return the library material to the library.

2. It shall be prima facie evidence of the person's purpose to deprive the library of the library materials if, within ten days after notice in writing deposited as certified mail from the library demanding the return of such library material, he without good cause shown fails to return the library material. A person is presumed to have received the notice required by this [subdivision] **subsection** if the library mails such notice to the last address provided to the library by such person.

3. The crime of library theft is a class C felony if the value of the library material is [one hundred and fifty] **five hundred** dollars or more; otherwise, library theft is a class C misdemeanor.

570.300. 1. A person commits the crime of theft of cable television service if he:

(1) Knowingly obtains or attempts to obtain cable television service without paying all lawful compensation to the operator of such service, by means of artifice, trick, deception or device; or

(2) Knowingly assists another person in obtaining or attempting to obtain cable television service without paying all lawful compensation to the operator of such service; or

(3) Knowingly connects to, tampers with or otherwise interferes with any cables, wires or other devices used for the distribution of cable television if the effect of such action is to obtain cable television without paying all lawful compensation therefor; or

(4) Knowingly sells, uses, manufactures, rents or offers for sale, rental or use any device, plan or kit designed and intended to obtain cable television service in violation of this section.

2. Theft of cable television service is a class C felony if the value of the service appropriated is [one hundred fifty] **five hundred** dollars or more; otherwise theft of cable television services is a class A misdemeanor.

3. Any cable television operator may bring an action to enjoin and restrain any violation of the provisions of this section or bring an action for conversion. In addition to any actual damages, an operator may be entitled to punitive damages and reasonable attorney fees in any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage. In the event of a defendant's verdict the defendant may be entitled to reasonable attorney fees.

4. The existence on the property and in the actual possession of the accused of any connection wire, or conductor, which is connected in such a manner as to permit the use of cable television service without the same being reported for payment to and specifically authorized by the operator of the cable television service shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that the accused has committed the crime of theft of cable television service.

5. If a cable television company either:

(1) Provides unsolicited cable television service; or

(2) Fails to change or disconnect cable television service within ten days after receiving written notice to do so by the customer, the customer may deem such service to be a gift without any obligation to the cable television company from ten days after such written notice is received until the service is changed or disconnected.

6. Nothing in this section shall be construed to render unlawful or prohibit an individual or other legal entity from owning or operating a video cassette recorder or devices commonly known as a "satellite receiving dish" for the purpose of receiving and utilizing satellite-relayed television signals for his own use.

7. As used in this section, the term "cable television service" includes microwave television

transmission from a multipoint distribution service not capable of reception by conventional television receivers without the use of special equipment.

578.150. 1. A person commits the crime of failing to return leased or rented property if, with the intent to deprive the owner thereof, he purposefully fails to return leased or rented personal property to the place and within the time specified in an agreement in writing providing for the leasing or renting of such personal property. In addition, any person who has leased or rented personal property of another who conceals the property from the owner, or who otherwise sells, pawns, loans, abandons or gives away the leased or rented property is guilty of the crime of failing to return leased or rented property. The provisions of this section shall apply to all forms of leasing and rental agreements, including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease-purchase agreements and rent-to-own contracts. For the purpose of determining if a violation of this section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale and transfer of ownership of the leased property to the lessee.

2. It shall be prima facie evidence of the crime of failing to return leased or rented property when a person who has leased or rented personal property of another willfully fails to return or make arrangements acceptable with the lessor to return the personal property to its owner at the owner's place of business within ten days after proper notice following the expiration of the lease or rental agreement, except that if the motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, such failure to return the motor vehicle shall be prima facie evidence of the intent of the crime of failing to return leased or rented property. Where the leased or rented property is a motor vehicle, if the motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle, and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles. Any law enforcement officer which stops such a motor vehicle may seize the motor vehicle and notify the lessor that he may recover such motor vehicle after it is photographed and its vehicle identification number is recorded for evidentiary purposes. Where the leased or rented property is not a motor vehicle, if such property has not been returned within the ten-day period prescribed in this subsection, the owner of the property shall report the failure to return the property to the local law enforcement agency, and such law enforcement agency may within five days notify the person who leased or rented the property that such person is in violation of this section, and that failure to immediately return the property may subject such person to arrest for the violation.

3. This section shall not apply if such personal property is a vehicle and such return is made more difficult or expensive by a defect in such vehicle which renders such vehicle inoperable,

if the lessee shall notify the lessor of the location of such vehicle and such defect before the expiration of the lease or rental agreement, or within ten days after proper notice.

4. Proper notice by the lessor shall consist of a written demand addressed and mailed by certified or registered mail to the lessee at the address given at the time of making the lease or rental agreement. The notice shall contain a statement that the failure to return the property may subject the lessee to criminal prosecution.

5. Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner shall be guilty of property damage pursuant to section 569.100 or 569.120, RSMo, in addition to being in violation of this section.

6. Venue shall lie in the county where the personal property was originally rented or leased.

7. Failure to return leased or rented property is a class A misdemeanor unless the property involved has a value of [one hundred fifty] **five hundred** dollars or more, in which case failing to return leased or rented property is a class C felony.

578.377. 1. A person commits the crime of unlawfully receiving food stamp coupons or ATP cards if he knowingly receives or uses the proceeds of food stamp coupons or ATP cards to which he is not lawfully entitled or for which he has not applied and been approved by the department to receive.

2. Unlawfully receiving food stamp coupons or ATP cards is a class D felony unless the face value of the food stamp coupon or ATP cards is less than [one hundred fifty] **five hundred** dollars, in which case unlawful receiving of food stamp coupons and ATP cards is a class A misdemeanor.

578.379. 1. A person commits the crime of conversion of food stamp coupons or ATP cards if he knowingly engages in any transaction to convert food stamp coupons or ATP cards to other property contrary to statutes, rules and regulations, either state or federal, governing the food stamp program.

2. Unlawful conversion of food stamp coupons or ATP cards is a class D felony unless the face value of said food stamp coupons or ATP cards is less than [one hundred fifty] **five hundred** dollars, in which case unlawful conversion of food stamp coupons or ATP cards is a class A misdemeanor.

578.381. 1. A person commits the crime of unlawful transfer of food stamp coupons or ATP cards if he knowingly transfers food stamp coupons or ATP cards to another not lawfully entitled or approved by the department to receive the food stamp coupons or ATP cards.

2. Unlawful transfer of food stamp coupons or ATP cards is a class D felony unless the face value of said food stamp coupons or ATP cards is less than [one hundred fifty] **five hundred** dollars, in which case unlawful transfer of food stamp coupons or ATP cards is a class A misdemeanor.

578.385. 1. A person commits the crime of perjury for the purpose of this section if he knowingly makes a false or misleading statement or misrepresents a fact material for the purpose of obtaining public assistance if the false or misleading statement is reduced to writing and verified by the signature of the person making the statement and by the signature of any employee of the Missouri department of social services. The same person may not be charged with unlawfully receiving public assistance benefits and perjury under this section when both offenses arise from the same application for benefits.

2. A statement or fact is material, regardless of its admissibility under rules of evidence, if it could substantially affect or did substantially affect the granting of public assistance.

3. Knowledge of the materiality of the statement or fact is not an element of this crime, and it is no defense that:

(1) The defendant mistakenly believed the fact to be immaterial; or

(2) The defendant was not competent, for reasons other than mental disability, to make the statement.

4. Perjury committed as part of a transaction involving the making of an application to obtain public assistance is a class D felony unless the value of the public assistance unlawfully obtained or unlawfully attempted to be obtained is less than [one hundred fifty] **five hundred** dollars in which case it is a class A misdemeanor.

Unofficial
Bill
Copy