



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2402

Introduced 2/17/2021, by Rep. Kambium Buckner

SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-1
720 ILCS 5/16-25

from Ch. 38, par. 16-1

Amends the Criminal Code of 2012. Increases the threshold amount of theft not from the person and retail theft that enhances the offense from a misdemeanor to a felony to \$2,000. Provides that an enhancement from a misdemeanor to a felony based on a prior conviction must only be for felony theft.

LRB102 10972 KMF 16304 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by
5 changing Sections 16-1 and 16-25 as follows:

6 (720 ILCS 5/16-1) (from Ch. 38, par. 16-1)

7 Sec. 16-1. Theft.

8 (a) A person commits theft when he or she knowingly:

9 (1) Obtains or exerts unauthorized control over
10 property of the owner; or

11 (2) Obtains by deception control over property of the
12 owner; or

13 (3) Obtains by threat control over property of the
14 owner; or

15 (4) Obtains control over stolen property knowing the
16 property to have been stolen or under such circumstances
17 as would reasonably induce him or her to believe that the
18 property was stolen; or

19 (5) Obtains or exerts control over property in the
20 custody of any law enforcement agency which any law
21 enforcement officer or any individual acting in behalf of
22 a law enforcement agency explicitly represents to the
23 person as being stolen or represents to the person such

1 circumstances as would reasonably induce the person to
2 believe that the property was stolen, and

3 (A) Intends to deprive the owner permanently of
4 the use or benefit of the property; or

5 (B) Knowingly uses, conceals or abandons the
6 property in such manner as to deprive the owner
7 permanently of such use or benefit; or

8 (C) Uses, conceals, or abandons the property
9 knowing such use, concealment or abandonment probably
10 will deprive the owner permanently of such use or
11 benefit.

12 (b) Sentence.

13 (1) Theft of property not from the person and not
14 exceeding \$2,000 ~~\$500~~ in value is a Class A misdemeanor.

15 (1.1) Theft of property not from the person and not
16 exceeding \$2,000 ~~\$500~~ in value is a Class 4 felony if the
17 theft was committed in a school or place of worship or if
18 the theft was of governmental property.

19 (2) A person who has been convicted of theft of
20 property not from the person and not exceeding \$2,000 ~~\$500~~
21 in value who has been previously convicted of felony ~~any~~
22 ~~type~~ of theft, ~~robbery, armed robbery, burglary,~~
23 ~~residential burglary, possession of burglary tools, home~~
24 ~~invasion, forgery, a violation of Section 4-103, 4-103.1,~~
25 ~~4-103.2, or 4-103.3 of the Illinois Vehicle Code relating~~
26 ~~to the possession of a stolen or converted motor vehicle,~~

1 ~~or a violation of Section 17-36 of the Criminal Code of~~
2 ~~1961 or the Criminal Code of 2012, or Section 8 of the~~
3 ~~Illinois Credit Card and Debit Card Act~~ is guilty of a
4 Class 4 felony.

5 (3) (Blank).

6 (4) Theft of property from the person not exceeding
7 \$500 in value, or theft of property exceeding \$2,000 ~~\$500~~
8 and not exceeding \$10,000 in value, is a Class 3 felony.

9 (4.1) Theft of property from the person not exceeding
10 \$500 in value, or theft of property exceeding \$2,000 ~~\$500~~
11 and not exceeding \$10,000 in value, is a Class 2 felony if
12 the theft was committed in a school or place of worship or
13 if the theft was of governmental property.

14 (5) Theft of property exceeding \$10,000 and not
15 exceeding \$100,000 in value is a Class 2 felony.

16 (5.1) Theft of property exceeding \$10,000 and not
17 exceeding \$100,000 in value is a Class 1 felony if the
18 theft was committed in a school or place of worship or if
19 the theft was of governmental property.

20 (6) Theft of property exceeding \$100,000 and not
21 exceeding \$500,000 in value is a Class 1 felony.

22 (6.1) Theft of property exceeding \$100,000 in value is
23 a Class X felony if the theft was committed in a school or
24 place of worship or if the theft was of governmental
25 property.

26 (6.2) Theft of property exceeding \$500,000 and not

1 exceeding \$1,000,000 in value is a Class 1
2 non-probationable felony.

3 (6.3) Theft of property exceeding \$1,000,000 in value
4 is a Class X felony.

5 (7) Theft by deception, as described by paragraph (2)
6 of subsection (a) of this Section, in which the offender
7 obtained money or property valued at \$5,000 or more from a
8 victim 60 years of age or older or a person with a
9 disability is a Class 2 felony.

10 (8) Theft by deception, as described by paragraph (2)
11 of subsection (a) of this Section, in which the offender
12 falsely poses as a landlord or agent or employee of the
13 landlord and obtains a rent payment or a security deposit
14 from a tenant is a Class 3 felony if the rent payment or
15 security deposit obtained does not exceed \$500.

16 (9) Theft by deception, as described by paragraph (2)
17 of subsection (a) of this Section, in which the offender
18 falsely poses as a landlord or agent or employee of the
19 landlord and obtains a rent payment or a security deposit
20 from a tenant is a Class 2 felony if the rent payment or
21 security deposit obtained exceeds \$500 and does not exceed
22 \$10,000.

23 (10) Theft by deception, as described by paragraph (2)
24 of subsection (a) of this Section, in which the offender
25 falsely poses as a landlord or agent or employee of the
26 landlord and obtains a rent payment or a security deposit

1 from a tenant is a Class 1 felony if the rent payment or
2 security deposit obtained exceeds \$10,000 and does not
3 exceed \$100,000.

4 (11) Theft by deception, as described by paragraph (2)
5 of subsection (a) of this Section, in which the offender
6 falsely poses as a landlord or agent or employee of the
7 landlord and obtains a rent payment or a security deposit
8 from a tenant is a Class X felony if the rent payment or
9 security deposit obtained exceeds \$100,000.

10 (c) When a charge of theft of property exceeding a
11 specified value is brought, the value of the property involved
12 is an element of the offense to be resolved by the trier of
13 fact as either exceeding or not exceeding the specified value.

14 (d) Theft by lessee; permissive inference. The trier of
15 fact may infer evidence that a person intends to deprive the
16 owner permanently of the use or benefit of the property (1) if
17 a lessee of the personal property of another fails to return it
18 to the owner within 10 days after written demand from the owner
19 for its return or (2) if a lessee of the personal property of
20 another fails to return it to the owner within 24 hours after
21 written demand from the owner for its return and the lessee had
22 presented identification to the owner that contained a
23 materially fictitious name, address, or telephone number. A
24 notice in writing, given after the expiration of the leasing
25 agreement, addressed and mailed, by registered mail, to the
26 lessee at the address given by him and shown on the leasing

1 agreement shall constitute proper demand.

2 (e) Permissive inference; evidence of intent that a person
3 obtains by deception control over property. The trier of fact
4 may infer that a person "knowingly obtains by deception
5 control over property of the owner" when he or she fails to
6 return, within 45 days after written demand from the owner,
7 the downpayment and any additional payments accepted under a
8 promise, oral or in writing, to perform services for the owner
9 for consideration of \$3,000 or more, and the promisor
10 knowingly without good cause failed to substantially perform
11 pursuant to the agreement after taking a down payment of 10% or
12 more of the agreed upon consideration. This provision shall
13 not apply where the owner initiated the suspension of
14 performance under the agreement, or where the promisor
15 responds to the notice within the 45-day notice period. A
16 notice in writing, addressed and mailed, by registered mail,
17 to the promisor at the last known address of the promisor,
18 shall constitute proper demand.

19 (f) Offender's interest in the property.

20 (1) It is no defense to a charge of theft of property
21 that the offender has an interest therein, when the owner
22 also has an interest to which the offender is not
23 entitled.

24 (2) Where the property involved is that of the
25 offender's spouse, no prosecution for theft may be
26 maintained unless the parties were not living together as

1 man and wife and were living in separate abodes at the time
2 of the alleged theft.

3 (Source: P.A. 101-394, eff. 1-1-20.)

4 (720 ILCS 5/16-25)

5 Sec. 16-25. Retail theft.

6 (a) A person commits retail theft when he or she
7 knowingly:

8 (1) Takes possession of, carries away, transfers or
9 causes to be carried away or transferred any merchandise
10 displayed, held, stored or offered for sale in a retail
11 mercantile establishment with the intention of retaining
12 such merchandise or with the intention of depriving the
13 merchant permanently of the possession, use or benefit of
14 such merchandise without paying the full retail value of
15 such merchandise; or

16 (2) Alters, transfers, or removes any label, price
17 tag, marking, indicia of value or any other markings which
18 aid in determining value affixed to any merchandise
19 displayed, held, stored or offered for sale in a retail
20 mercantile establishment and attempts to purchase such
21 merchandise at less than the full retail value with the
22 intention of depriving the merchant of the full retail
23 value of such merchandise; or

24 (3) Transfers any merchandise displayed, held, stored
25 or offered for sale in a retail mercantile establishment

1 from the container in or on which such merchandise is
2 displayed to any other container with the intention of
3 depriving the merchant of the full retail value of such
4 merchandise; or

5 (4) Under-rings with the intention of depriving the
6 merchant of the full retail value of the merchandise; or

7 (5) Removes a shopping cart from the premises of a
8 retail mercantile establishment without the consent of the
9 merchant given at the time of such removal with the
10 intention of depriving the merchant permanently of the
11 possession, use or benefit of such cart; or

12 (6) Represents to a merchant that he, she, or another
13 is the lawful owner of property, knowing that such
14 representation is false, and conveys or attempts to convey
15 that property to a merchant who is the owner of the
16 property in exchange for money, merchandise credit or
17 other property of the merchant; or

18 (7) Uses or possesses any theft detection shielding
19 device or theft detection device remover with the
20 intention of using such device to deprive the merchant
21 permanently of the possession, use or benefit of any
22 merchandise displayed, held, stored or offered for sale in
23 a retail mercantile establishment without paying the full
24 retail value of such merchandise; or

25 (8) Obtains or exerts unauthorized control over
26 property of the owner and thereby intends to deprive the

1 owner permanently of the use or benefit of the property
2 when a lessee of the personal property of another fails to
3 return it to the owner, or if the lessee fails to pay the
4 full retail value of such property to the lessor in
5 satisfaction of any contractual provision requiring such,
6 within 10 days after written demand from the owner for its
7 return. A notice in writing, given after the expiration of
8 the leasing agreement, by registered mail, to the lessee
9 at the address given by the lessee and shown on the leasing
10 agreement shall constitute proper demand.

11 (b) Theft by emergency exit. A person commits theft by
12 emergency exit when he or she commits a retail theft as defined
13 in subdivisions (a) (1) through (a) (8) of this Section and to
14 facilitate the theft he or she leaves the retail mercantile
15 establishment by use of a designated emergency exit.

16 (c) Permissive inference. If any person:

17 (1) conceals upon his or her person or among his or her
18 belongings unpurchased merchandise displayed, held, stored
19 or offered for sale in a retail mercantile establishment;
20 and

21 (2) removes that merchandise beyond the last known
22 station for receiving payments for that merchandise in
23 that retail mercantile establishment,
24 then the trier of fact may infer that the person possessed,
25 carried away or transferred such merchandise with the
26 intention of retaining it or with the intention of depriving

1 the merchant permanently of the possession, use or benefit of
2 such merchandise without paying the full retail value of such
3 merchandise.

4 To "conceal" merchandise means that, although there may be
5 some notice of its presence, that merchandise is not visible
6 through ordinary observation.

7 (d) Venue. Multiple thefts committed by the same person as
8 part of a continuing course of conduct in different
9 jurisdictions that have been aggregated in one jurisdiction
10 may be prosecuted in any jurisdiction in which one or more of
11 the thefts occurred.

12 (e) For the purposes of this Section, "theft detection
13 shielding device" means any laminated or coated bag or device
14 designed and intended to shield merchandise from detection by
15 an electronic or magnetic theft alarm sensor.

16 (f) Sentence.

17 (1) A violation of any of subdivisions (a)(1) through
18 (a)(6) and (a)(8) of this Section, the full retail value
19 of which does not exceed \$2,000 ~~\$300~~ for property other
20 than motor fuel or \$150 for motor fuel, is a Class A
21 misdemeanor. A violation of subdivision (a)(7) of this
22 Section is a Class A misdemeanor for a first offense and a
23 Class 4 felony for a second or subsequent offense. Theft
24 by emergency exit of property, the full retail value of
25 which does not exceed \$2,000 ~~\$300~~, is a Class 4 felony.

26 (2) A person who has been convicted of retail theft of

1 property under any of subdivisions (a)(1) through (a)(6)
2 and (a)(8) of this Section, the full retail value of which
3 does not exceed \$2,000 ~~\$300~~ for property other than motor
4 fuel or \$150 for motor fuel, and who has been previously
5 convicted of any type of theft, robbery, armed robbery,
6 burglary, residential burglary, possession of burglary
7 tools, home invasion, unlawful use of a credit card, or
8 forgery is guilty of a Class 4 felony. A person who has
9 been convicted of theft by emergency exit of property, the
10 full retail value of which does not exceed \$2,000 ~~\$300~~,
11 and who has been previously convicted of felony ~~any type~~
12 ~~of theft, robbery, armed robbery, burglary, residential~~
13 ~~burglary, possession of burglary tools, home invasion,~~
14 ~~unlawful use of a credit card, or forgery~~ is guilty of a
15 Class 3 felony.

16 (3) Any retail theft of property under any of
17 subdivisions (a)(1) through (a)(6) and (a)(8) of this
18 Section, the full retail value of which exceeds \$2,000
19 ~~\$300~~ for property other than motor fuel or \$150 for motor
20 fuel in a single transaction, or in separate transactions
21 committed by the same person as part of a continuing
22 course of conduct from one or more mercantile
23 establishments over a period of one year, is a Class 3
24 felony. Theft by emergency exit of property, the full
25 retail value of which exceeds \$2,000 ~~\$300~~ in a single
26 transaction, or in separate transactions committed by the

1 same person as part of a continuing course of conduct from
2 one or more mercantile establishments over a period of one
3 year, is a Class 2 felony. When a charge of retail theft of
4 property or theft by emergency exit of property, the full
5 value of which exceeds \$2,000 ~~\$300~~, is brought, the value
6 of the property involved is an element of the offense to be
7 resolved by the trier of fact as either exceeding or not
8 exceeding \$2,000 ~~\$300~~.

9 (Source: P.A. 97-597, eff. 1-1-12.)