

CHAPTER 599

S.B. No. 30

An Act relating to the elements of the offense of theft, evidence admissible in the prosecution of the offense, character of stolen property, and defenses that are unavailable to the defendant in the prosecution of the offense; amending Section 31.03, Penal Code, as amended.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 31.03, Penal Code, as amended, is amended to read as follows:

“Section 31.03. **THEFT.** (a) A person commits an offense if he unlawfully appropriates property with intent to deprive the owner of property.

“(b) Appropriation of property is unlawful if:

“(1) it is without the owner’s effective consent; [~~or~~]

“(2) the property is stolen and the actor appropriates the property knowing it was stolen by another; or

“(3) property in the custody of any law enforcement agency was explicitly represented by any law enforcement agent to the actor as being stolen and the actor appropriates the property believing it was stolen by another.

“(c) For purposes of Subsection (b) [(2)] of this section:

“(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor’s plea of not guilty;

“(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor’s knowledge or intent may be established by the uncorroborated testimony of the accomplice;

“(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with him, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Article 6687-1, Vernon’s Texas Civil Statutes) that the property has been previously stolen from another if the actor pays for or loans against the property \$25 or more (or consideration of equivalent value) and the actor knowingly or recklessly:

“(i) fails to record the name, address, and physical description or identification number of the seller or pledgor;

“(ii) fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

“(iii) fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements; [-]

“(4) for the purposes of Subparagraph (i) above, ‘identification number’ means driver’s license number, military identification number, identification certificate, or other official number capable of identifying an individual;

“(5) stolen property does not lose its character as stolen when recovered by any law enforcement agency.

“(d) It is not a defense to prosecution under this section that:

“(1) the offense occurred as a result of a deception or strategy on the part of a law enforcement agency, including the use of an undercover operative or peace officer;

“(2) the actor was provided by a law enforcement agency with a facility in which to commit the offense or an opportunity to engage in conduct constituting the offense; or

“(3) the actor was solicited to commit the offense by a peace officer, and the solicitation was of a type that would encourage a person predisposed to commit the offense to actually commit the offense, but would not encourage a person not predisposed to commit the offense to actually commit the offense.

“(e) Except as provided by Subsection (f) [(e)] of this section, an offense under this section is:

“(1) a Class C misdemeanor if the value of the property stolen is less than \$20;

“(2) a Class B misdemeanor if:

“(A) the value of the property stolen is \$20 or more but less than \$200; or

“(B) the value of the property stolen is less than \$20 and the defendant has previously been convicted of any grade of theft;

“(3) a Class A misdemeanor if the value of the property stolen is \$200 or more but less than \$750;

“(4) a felony of the third degree if:

“(A) the value of the property stolen is \$750 or more but less than \$20,000, or the property is one or more head of cattle, horses, sheep, swine, or goats or any part thereof under the value of \$20,000;

“(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave; or

“(C) the value of the property stolen is less than \$750 and the defendant has been previously convicted two or more times of any grade of theft; or

“(5) a felony of the second degree if:

“(A) regardless of the value, the property is:

“(i) combustible hydrocarbon natural or synthetic natural gas, or crude petroleum oil;

“(ii) equipment designed for use in exploration for or production of natural gas or crude petroleum oil; or

“(iii) equipment designed for use in remedial or diagnostic operations on gas or crude petroleum oil wells;

“(B) the value of the property stolen is \$20,000 or more; or

“(C) regardless of the value, the property was unlawfully appropriated or attempted to be unlawfully appropriated by threat to commit a felony offense against the person or property of the person threatened or another or to withhold information about the location or purported location of a bomb, poison, or other harmful object that threatens to harm the person or property of the person threatened or another person.

“(f) [(e)] An offense described for purposes of punishment by Subsection (e) [(e)] of this section is increased to the next higher category of offense if it is shown on the trial of the offense that:

“(1) the actor was a public servant at the time of the offense; and

“(2) the property appropriated came into the actor’s custody, possession, or control by virtue of his status as a public servant.”

SECTION 2. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 3. This Act takes effect September 1, 1985.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 22, 1985, by a viva-voce vote; Senate concurred in House amendments on May 27, 1985, by a viva-voce vote; passed the House, with amendments, on May 25, 1985, by a non-record vote.

Approved: June 14, 1985

Effective: September 1, 1985