

# SB3257



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB3257

Introduced 2/15/2018, by Sen. Elgie R. Sims, Jr.

#### 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.

LRB100 20565 RLC 35969 b

A BILL FOR

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 changing  
5 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 as  
17 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 a  
22 law enforcement agency explicitly represents to the person  
23 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 the  
4 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 is a Class 2 felony.

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

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

22 (10) Theft by deception, as described by paragraph (2)  
23 of subsection (a) of this Section, in which the offender  
24 falsely poses as a landlord or agent or employee of the  
25 landlord and obtains a rent payment or a security deposit  
26 from a tenant is a Class 1 felony if the rent payment or

1 security deposit obtained exceeds \$10,000 and does not  
2 exceed \$100,000.

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

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

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

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

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

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

21           (2) Where the property involved is that of the  
22 offender's spouse, no prosecution for theft may be  
23 maintained unless the parties were not living together as  
24 man and wife and were living in separate abodes at the time  
25 of the alleged theft.

26           (Source: P.A. 96-496, eff. 1-1-10; 96-534, eff. 8-14-09;

1 96-1000, eff. 7-2-10; 96-1301, eff. 1-1-11; 96-1532, eff.  
2 1-1-12; 96-1551, eff. 7-1-11; 97-597, eff. 1-1-12; 97-1150,  
3 eff. 1-25-13.)

4 (720 ILCS 5/16-25)

5 Sec. 16-25. Retail theft.

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

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

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

23 (3) Transfers any merchandise displayed, held, stored  
24 or offered for sale in a retail mercantile establishment  
25 from the container in or on which such merchandise is



1 displayed to any other container with the intention of  
2 depriving the merchant of the full retail value of such  
3 merchandise; or

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

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

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

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

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

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

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

15          (c) Permissive inference. If any person:

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

20               (2) removes that merchandise beyond the last known  
21               station for receiving payments for that merchandise in that  
22               retail mercantile establishment,

23          then the trier of fact may infer that the person possessed,  
24          carried away or transferred such merchandise with the intention  
25          of retaining it or with the intention of depriving the merchant  
26          permanently of the possession, use or benefit of such

1 merchandise without paying the full retail value of such  
2 merchandise.

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

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

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

15 (f) Sentence.

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

25 (2) A person who has been convicted of retail theft of  
26 property under any of subdivisions (a)(1) through (a)(6)

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

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

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

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