

HOUSE BILL No. 2253

By Committee on Agriculture and Natural Resources

Requested by Representatives Schwertfeger and Steele on behalf of the Kansas
Cattlemen's Association and the Kansas Livestock Association

2-4

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to theft of property; providing that the violation the theft of livestock or
3 implements of husbandry is a severity level 5, nonperson felony;
4 allowing for the forfeiture of property used in the commission of theft
5 of an implement of husbandry; amending K.S.A. 21-5801 and 22-
6 4807a and repealing the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 21-5801 is hereby amended to read as follows: 21-
10 5801. (a) Theft is any of the following acts done with intent to
11 permanently deprive the owner of the possession, use or benefit of the
12 owner's property or services:

13 (1) Obtaining or exerting unauthorized control over property or
14 services;

15 (2) obtaining control over property or services, by deception;

16 (3) obtaining control over property or services, by threat;

17 (4) obtaining control over stolen property or services knowing the
18 property or services to have been stolen by another; or

19 (5) knowingly dispensing motor fuel into a storage container or the
20 fuel tank of a motor vehicle at an establishment in which motor fuel is
21 offered for retail sale and leaving the premises of the establishment
22 without making payment for the motor fuel.

23 (b) Theft of:

24 (1) Property or services of the value of \$100,000 or more is a severity
25 level 5, nonperson felony;

26 (2) property or services of the value of at least \$25,000 but less than
27 \$100,000 is a severity level 7, nonperson felony;

28 (3) property or services of the value of at least \$1,500 but less than
29 \$25,000 is a severity level 9, nonperson felony, except as provided in
30 subsection (b)(7) or (b)(9);

31 (4) property or services of the value of less than \$1,500 is a class A
32 nonperson misdemeanor, except as provided in subsection (b)(5), (b)(6),
33 (b)(7)-~~or~~, (b)(8) or (b)(9);

34 (5) property of the value of less than \$1,500 from three separate

1 mercantile establishments within a period of 72 hours as part of the same
2 act or transaction or in two or more acts or transactions connected together
3 or constituting parts of a common scheme or course of conduct is a
4 severity level 9, nonperson felony;

5 (6) property of the value of at least \$50 but less than \$1,500 is a
6 severity level 9, nonperson felony if committed by a person who has,
7 within five years immediately preceding commission of the crime,
8 excluding any period of imprisonment, been convicted of theft two or
9 more times;

10 (7) property that is a firearm of the value of less than \$25,000 is a
11 severity level 9, nonperson felony; ~~and~~

12 (8) property that is mail of the value of less than \$1,500 from three
13 separate locations within a period of 72 hours as part of the same act or
14 transaction or in two or more acts or transactions connected together or
15 constituting parts of a common scheme or course of conduct is a severity
16 level 9, nonperson felony; *and*

17 (9) *property that is livestock or an implement of husbandry is a*
18 *severity level 5, nonperson felony.*

19 (c) As used in this section:

20 (1) "Conviction" or "convicted" includes being convicted of a
21 violation of K.S.A. 21-3701, prior to its repeal, this section or a municipal
22 ordinance which prohibits the acts that this section prohibits;

23 (2) *"implement of husbandry" means the same as defined in K.S.A. 8-*
24 *126, and amendments thereto;*

25 (3) *"livestock" means the same as defined in K.S.A. 22-4807a, and*
26 *amendments thereto;*

27 (4) "mail" means a letter, postal card, package or bag sent through the
28 United States postal service or other delivery service, or any other article
29 or thing contained therein;

30 ~~(3)~~(5) "regulated scrap metal" means the same as defined in K.S.A.
31 2024 Supp. 50-6,109, and amendments thereto;

32 ~~(4)~~(6) "remote service unit" means the same as defined in K.S.A. 9-
33 1111, and amendments thereto, and includes, but is not limited to,
34 automated cash dispensing machines and automated teller machines; and

35 ~~(5)~~(7) "value" means the value of the property or, if the property is
36 regulated scrap metal or a remote service unit, the cost to restore the site of
37 the theft of such regulated scrap metal or remote service unit to its
38 condition at the time immediately prior to the theft of such regulated scrap
39 metal or remote service unit, whichever is greater.

40 Sec. 2. K.S.A. 22-4807a is hereby amended to read as follows: 22-
41 4807a. (a) The following property is subject to forfeiture pursuant to this
42 act:

43 (1) Contraband property used or intended to be used in the

1 commission of theft of livestock *or an implement of husbandry*;

2 (2) the proceeds gained from the commission of theft of livestock *or*
3 *an implement of husbandry*;

4 (3) personal property acquired with proceeds gained from the
5 commission of theft of livestock *or an implement of husbandry*;

6 (4) all conveyances, including aircraft, vehicles, vessels, horses or
7 dogs ~~which~~ *that* are used or intended for the use to transport or in any
8 manner to facilitate the transportation for the purpose of the commission of
9 theft of livestock *or an implement of husbandry*. No conveyance used by
10 any person as a common carrier in the transportation of business as a
11 common carrier is subject to forfeiture under this section unless it appears
12 that the owner or other person in charge of the conveyance is a consenting
13 party or privy to a violation of this act. No conveyance is subject to
14 forfeiture under this section by reason of any act or omission established
15 by the owners thereof to have been committed or omitted without the
16 owners knowledge or consent. A forfeiture of a conveyance encumbered
17 by a bona fide security interest is subject to the interest of the secured
18 party or parties;

19 (5) all books, records and research products and materials ~~including~~
20 ~~microfilm, tapes and data which~~, *whether in a physical or electronic*
21 *format, that* are used or intended for the use in the theft of livestock *or an*
22 *implement of husbandry*;

23 (6) everything of value furnished, or intended to be furnished, or
24 traded or used as payment or invested for anything of value but shall not
25 include real property. It may be presumed that this property was acquired
26 with proceeds gained from the commission of theft of livestock *or an*
27 *implement of husbandry* and are subject to forfeiture.

28 (b) Property ~~which~~ *that* is used in the commission of theft of
29 livestock ~~which~~ *or an implement of husbandry that* has title of ownership
30 with two parties on the title or a cosigner is subject to forfeiture, if one
31 party on the title uses the property in the commission of theft of livestock
32 *or an implement of husbandry* or receives titled property as the proceeds of
33 such felony even if the second party claims that such second party did not
34 have knowledge or involvement in such felony.

35 (c) As used in this act:

36 (1) "Contraband property" means property of any nature including
37 personal, tangible or intangible but ~~shall~~ *does* not include real property.

38 (2) "*Domesticated deer*" means any member of the family *cervidae*
39 *that was legally obtained and is being sold or raised in a confined area*
40 *for*:

41 (A) *Breeding stock*;

42 (B) *any carcass, skin or part of such animal*;

43 (C) *exhibition; or*

1 (D) *companionship*.

2 (3) *"Implement of husbandry" means the same as defined in K.S.A. 8-*
3 *126, and amendments thereto.*

4 (4) *"Livestock" means cattle, swine, sheep, goats, horses, mules,*
5 *domesticated deer and all creatures of the ratite family that are not*
6 *indigenous to this state, including, but not limited to, ostriches, emus and*
7 *rheas, and any carcass, skin or part of such animal.*

8 ~~(3)(5) "Theft of livestock" means theft which is classified as a felony~~
9 ~~violation, pursuant to K.S.A. 21-5801(b)(9), and amendments thereto, in~~
10 ~~which the property taken was livestock.~~

11 ~~(4) "Domesticated deer" means any member of the family cervidae~~
12 ~~which was legally obtained and is being sold or raised in a confined area~~
13 ~~for breeding stock; for any carcass, skin or part of such animal; for~~
14 ~~exhibition; or for companionship.~~

15 Sec. 3. K.S.A. 21-5801 and 22-4807a are hereby repealed.

16 Sec. 4. This act shall take effect and be in force from and after its
17 publication in the statute book.