

HOUSE BILL No. 2278

By Committee on Corrections and Juvenile Justice

2-8

1 AN ACT concerning crimes, criminal procedure and punishment; relating
2 to theft, burglary and criminal deprivation; relating to firearms;
3 amending K.S.A. 2012 Supp. 21-5801, 21-5803 and 21-5807 and
4 repealing the existing sections.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2012 Supp. 21-5801 is hereby amended to read as
8 follows: 21-5801. (a) Theft is any of the following acts done with intent to
9 permanently deprive the owner of the possession, use or benefit of the
10 owner's property or services:

11 (1) Obtaining or exerting unauthorized control over property or
12 services;

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

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

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

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

21 (b) ~~Except as provided in subsection (e),~~ Theft of:

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

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

26 (3) property or services of the value of at least \$1,000 but less than
27 \$25,000 is a severity level 9, nonperson felony, *except as provided in*
28 *subsection (b)(7);*

29 (4) property or services of the value of less than \$1,000 is a class A
30 nonperson misdemeanor, except as provided in subsection (b)(5) ~~or~~, (b)(6)
31 *or (b)(7);*

32 (5) property ~~regardless~~ of the value of *less than \$1,000* from three
33 separate mercantile establishments within a period of 72 hours as part of
34 the same act or transaction or in two or more acts or transactions
35 connected together or constituting parts of a common scheme or course of
36 conduct is a severity level 9, nonperson felony; ~~and~~

1 (6) property of the value of less than \$1,000 is a severity level 9,
2 nonperson felony if committed by a person who has been convicted of
3 theft two or more times; *and*

4 (7) *property which is a firearm of the value of less than \$25,000 is a*
5 *severity level 9 person felony.*

6 (c) As used in this section:

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

10 (2) "regulated scrap metal" means the same as in K.S.A. 2012 Supp.
11 50-6,109, and amendments thereto; and

12 (3) "value" means the value of the property or, if the property is
13 regulated scrap metal, the cost to restore the site of the theft of such
14 regulated scrap metal to its condition at the time immediately prior to the
15 theft of such regulated scrap metal, whichever is greater.

16 Sec. 2. K.S.A. 2012 Supp. 21-5803 is hereby amended to read as
17 follows: 21-5803. (a) Criminal deprivation of property is obtaining or
18 exerting unauthorized control over property, with intent to temporarily
19 deprive the owner of the use thereof, without the owner's consent but not
20 with the intent of permanently depriving the owner of the possession, use
21 or benefit of such owner's property.

22 (b) (1) (A) Criminal deprivation of property that is a motor vehicle is
23 a:

24 (i) Class A nonperson misdemeanor, except as provided in subsection
25 (b)(1)(A)(ii); and

26 (ii) severity level 9, nonperson felony upon a third or subsequent
27 conviction.

28 (B) Upon a first conviction of subsection (b)(1)(A), a person shall be
29 sentenced to not less than 30 days nor more than one year's imprisonment
30 and fined not less than \$100. Upon a second conviction of subsection (b)
31 (1)(A), a person shall be sentenced to not less than 60 days nor more than
32 one year's imprisonment and fined not less than \$200. The person
33 convicted shall not be eligible for release on probation, suspension or
34 reduction of sentence or parole until the person has served the minimum
35 mandatory sentence as provided herein.

36 (2) *Criminal deprivation of property that is a firearm is a severity*
37 *level 9, person felony.*

38 ~~(2)~~ (3) Criminal deprivation of property other than a motor vehicle *or*
39 *a firearm* is a class A nonperson misdemeanor. Upon a second or
40 subsequent conviction of this paragraph, a person shall be sentenced to not
41 less than 30 days imprisonment and fined not less than \$100.

42 (3) The mandatory provisions of this subsection shall not apply to any
43 person where such application would result in a manifest injustice.

1 (c) As used in this section, "motor vehicle" means the same as in
2 K.S.A. 8-1437, and amendments thereto.

3 Sec. 3. K.S.A. 2012 Supp. 21-5807 is hereby amended to read as
4 follows: 21-5807. (a) Burglary is, without authority, entering into or
5 remaining within any:

6 (1) Dwelling, with intent to commit a felony, theft or sexually
7 motivated crime therein;

8 (2) building, manufactured home, mobile home, tent or other
9 structure which is not a dwelling, with intent to commit a felony, theft or
10 sexually motivated crime therein; or

11 (3) vehicle, aircraft, watercraft, railroad car or other means of
12 conveyance of persons or property, with intent to commit a felony, theft or
13 sexually motivated crime therein.

14 (b) Aggravated burglary is, without authority, entering into or
15 remaining within any building, manufactured home, mobile home, tent or
16 other structure, or any vehicle, aircraft, watercraft, railroad car or other
17 means of conveyance of persons or property in which there is a human
18 being with intent to commit a felony, theft or sexually motivated crime
19 therein.

20 (c) (1) Burglary as defined in:

21 (A) Subsection (a)(1) is a severity level 7, person felony, *except as*
22 *provided in subsection (c)(2);*

23 (B) subsection (a)(2) is a severity level 7, nonperson felony, *except as*
24 *provided in subsection (c)(2); and*

25 (C) subsection (a)(3) is a severity level 9, nonperson felony, *except as*
26 *provided in subsection (c)(2); and*

27 (2) *subsection (a)(1), (a)(2) or (a)(3) with the intent to commit the*
28 *theft of a firearm is a severity level 5, person felony.*

29 (2) (3) Aggravated burglary is a severity level 5, person felony.

30 (d) As used in this section, "sexually motivated" means that one of
31 the purposes for which the defendant committed the crime was for the
32 purpose of the defendant's sexual gratification.

33 Sec. 4. K.S.A. 2012 Supp. 21-5801, 21-5803 and 21-5807 are hereby
34 repealed.

35 Sec. 5. This act shall take effect and be in force from and after its
36 publication in the statute book.