

HB484

By Representative Black (M)

RFD Judiciary

Rd 1 17-FEB-05

SYNOPSIS: Under a law enacted in 2003, the monetary amounts related to the three criminal offenses of theft of property were adjusted. Also in 2003, the crime of theft of property in the second degree required as an element in instances of prior offenses that the defendant had been previously convicted of theft of property in the first or second degree or receiving stolen property in the first or second degree.

In 2004, the references to certain types of livestock was changed in the offense of theft of property in the second degree. The 2004 act also reapplied the pre-2003 monetary amount for the crime of theft of property in the second degree, resulting in a lack of coverage for the criminal offense for a certain monetary range. The 2004 act also deleted the alternative element that the defendant had been previously convicted of receiving stolen property in the first or second degree.

This bill would amend the theft of property in the second degree law to restore the monetary amounts specified in 2003, resulting in total monetary coverage relating to the crime, and would restore the alternative element concerning a defendant who had been previously convicted of receiving stolen property in the first or second degree.

Amendment 621 of the Constitution of Alabama of 1901 prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of Amendment 621. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in Amendment 621.

A BILL
TO BE ENTITLED
AN ACT

Relating to theft of property in the second degree; amending Section 13A-8-4 of the Code of Alabama of 1975, as last amended by Act 2004-627, to adjust the monetary range of the offense to conform with other theft of property offenses and in instances of prior offenses to restore the alternative element concerning a defendant who has been previously convicted of receiving stolen property in the first or second degree; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-8-4 of the Code of Alabama 1975, as last amended by Act 2004-627, is amended to read as follows:

§13A-8-4.

"(a) The theft of property which exceeds ~~two hundred fifty dollars (\$250)~~ five hundred dollars (\$500) in value but does not exceed ~~one thousand dollars (\$1,000)~~ two thousand five hundred dollars (\$2,500) in value, and which is not taken from the person of another, constitutes theft of property in the second degree.

"(b) Theft of property in the second degree is a Class C felony.

"(c) The theft of a credit card or a debit card, regardless of its value, constitutes theft of property in the second degree.

"(d) The theft of a firearm, rifle, or shotgun, regardless of its value, constitutes theft of property in the second degree.

"(e) The theft of any substance controlled by Chapter 2 of Title 20 or any amendments thereto, regardless of value, constitutes theft of property in the second degree.

"(f) The theft of any livestock which includes cattle, swine, equine or equidae, or sheep, regardless of their value, constitutes theft of property in the second degree.

"(g) Notwithstanding subsection (a), the theft of property which exceeds ~~one hundred dollars (\$100)~~ two hundred fifty dollars (\$250) in value but does not exceed ~~one thousand dollars (\$1,000)~~ two thousand five hundred dollars (\$2,500) in value, and which is not taken from the person of another, where the defendant has previously been convicted of a theft of property in the first or second degree or receiving stolen property in the first or second degree, constitutes theft of property in the second degree."

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621 because the bill defines a new crime or amends the definition of an existing crime.

Section 3. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

Crimes and Offenses

Criminal Law and Procedure

Theft of Property

Property, Real and Personal

Code Amended

Acts Amended