

SENATE BILL No. 79

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-43-4-2.

Synopsis: Theft. Enhances the penalty for theft if a person knowingly or intentionally exerts unauthorized control over property and then uses the Internet to sell, deliver, or distribute the property to another person acting as an enterprise engaging in racketeering activity.

Effective: July 1, 2020.

Messmer

January 6, 2020, read first time and referred to Committee on Corrections and Criminal Law.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE BILL No. 79



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-43-4-2, AS AMENDED BY P.L.276-2019,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 2. (a) A person who knowingly or intentionally
4 exerts unauthorized control over property of another person, with intent
5 to deprive the other person of any part of its value or use, commits
6 theft, a Class A misdemeanor. However, the offense is:
7 (1) a Level 6 felony if:
8 (A) the value of the property is at least seven hundred fifty
9 dollars (\$750) and less than fifty thousand dollars (\$50,000);
10 (B) the property is a:
11 (i) firearm;
12 (ii) motor vehicle (as defined in IC 9-13-2-105(a)); or
13 (iii) component part (as defined in IC 9-13-2-34) of a motor
14 vehicle; ~~or~~
15 **(C) the person exerts unauthorized control over property,**
16 **and then uses the Internet to sell, deliver, or distribute the**
17 **property to another person acting as an enterprise engaged**



- 1 **in racketeering activity (as described in IC 35-45-6-1); or**
 2 ~~(C)~~ **(D)** the person has a prior unrelated conviction for:
 3 (i) theft under this section; or
 4 (ii) criminal conversion under section 3 of this chapter; and
 5 (2) a Level 5 felony if:
 6 (A) the value of the property is at least fifty thousand dollars
 7 (\$50,000);
 8 (B) the property that is the subject of the theft is a valuable
 9 metal (as defined in IC 25-37.5-1-1) and:
 10 (i) relates to transportation safety;
 11 (ii) relates to public safety; or
 12 (iii) is taken from a hospital or other health care facility,
 13 telecommunications provider, public utility (as defined in
 14 IC 32-24-1-5.9(a)), or critical infrastructure facility;
 15 and the absence of the property creates a substantial risk of
 16 bodily injury to a person; ~~or~~
 17 (C) the property is a:
 18 (i) motor vehicle (as defined in IC 9-13-2-105(a)); or
 19 (ii) component part (as defined in IC 9-13-2-34) of a motor
 20 vehicle; and
 21 the person has a prior unrelated conviction for theft of a motor
 22 vehicle (as defined in IC 9-13-2-105(a)) or theft of a
 23 component part (as defined in IC 9-13-2-34); ~~or~~
 24 **(D) the:**
 25 **(i) person exerts unauthorized control over property,**
 26 **and then uses the Internet to sell, deliver, or distribute**
 27 **the property to another person acting as an enterprise**
 28 **engaged in racketeering activity (as described in**
 29 **IC 35-45-6-1); and**
 30 **(ii) value of the property is at least seven hundred fifty**
 31 **dollars (\$750).**
 32 (b) For purposes of this section, "the value of property" means:
 33 (1) the fair market value of the property at the time and place the
 34 offense was committed; or
 35 (2) if the fair market value of the property cannot be satisfactorily
 36 determined, the cost to replace the property within a reasonable
 37 time after the offense was committed.
 38 A price tag or price marking on property displayed or offered for sale
 39 constitutes prima facie evidence of the value of the property.
 40 (c) If the offense described in subsection (a) is committed by a
 41 public servant who exerted unauthorized control over public funds (as
 42 defined by IC 5-22-2-23) from the public servant's employer, the



1 employer may be reimbursed in accordance with IC 2-3.5-4-11,
2 IC 2-3.5-5-9, IC 5-10-5.5-19, IC 5-10.3-8-9, IC 5-10.4-5-14,
3 IC 10-12-2-10, IC 33-38-6-19.5, IC 33-39-7-10.5, IC 36-8-6-14,
4 IC 36-8-7-22, IC 36-8-7.5-19, or IC 36-8-8-17.

