

SENATE BILL No. 483

By Committee on Judiciary

2-9

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to theft and criminal damage to property; increasing penalties for such
3 crimes involving remote service units such as automated cash
4 dispensing machines and automated teller machines; amending K.S.A.
5 2021 Supp. 21-5801 and 21-5813 and repealing the existing sections.
6

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

8 Section 1. K.S.A. 2021 Supp. 21-5801 is hereby amended to read as
9 follows: 21-5801. (a) Theft is any of the following acts done with intent to
10 permanently deprive the owner of the possession, use or benefit of the
11 owner's property or services:

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

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

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

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

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

22 (b) Theft of:

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

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

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

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

33 (5) property of the value of less than \$1,500 from three separate
34 mercantile establishments within a period of 72 hours as part of the same
35 act or transaction or in two or more acts or transactions connected together
36 or constituting parts of a common scheme or course of conduct is a

1 severity level 9, nonperson felony;

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

7 (7) property which is a firearm of the value of less than \$25,000 is a
8 severity level 9, nonperson felony.

9 (c) As used in this section:

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

13 (2) "regulated scrap metal" means the same as *defined* in K.S.A. 2021
14 Supp. 50-6,109, and amendments thereto; ~~and~~

15 (3) "*remote service unit*" means the same as *defined* in K.S.A. 9-1111,
16 and amendments thereto, and includes, but is not limited to, *automated*
17 *cash dispensing machines and automated teller machines*; and

18 (4) "value" means the value of the property or, if the property is
19 regulated scrap metal *or a remote service unit*, the cost to restore the site
20 of the theft of such regulated scrap metal *or remote service unit* to its
21 condition at the time immediately prior to the theft of such regulated scrap
22 metal *or remote service unit*, whichever is greater.

23 Sec. 2. K.S.A. 2021 Supp. 21-5813 is hereby amended to read as
24 follows: 21-5813. (a) Criminal damage to property is by means other than
25 by fire or explosive:

26 (1) Knowingly damaging, destroying, defacing or substantially
27 impairing the use of any property in which another has an interest without
28 the consent of such other person; or

29 (2) damaging, destroying, defacing or substantially impairing the use
30 of any property with intent to injure or defraud an insurer or lienholder.

31 (b) Aggravated criminal damage to property is criminal damage to
32 property, as defined in subsection (a)(1), if the value or amount of damage
33 exceeds \$5,000, committed with the intent to obtain:

34 (1) *Currency upon a remote service unit as defined in K.S.A. 9-1111,*
35 *and amendments thereto, including, but not limited to, any automated cash*
36 *dispensing machine or automated teller machine*; or

37 (2) any regulated scrap metal as defined in K.S.A. 2021 Supp. 50-
38 6,109, and amendments thereto, or any items listed in K.S.A. 2021 Supp.
39 50-6,111(d), and amendments thereto, upon:

40 (A) Any building, structure, personal property or place used
41 primarily for worship or any religious purpose;

42 (B) any building, structure or place used as a school or as an
43 educational facility;

- 1 ~~(3)~~(C) any building, structure or place used by a non-profit or
 2 charitable business, corporation, firm, service or association;
 3 ~~(4)~~(D) any grave, cemetery, mortuary or personal property of the
 4 cemetery or mortuary or other facility used for the purpose of burial or
 5 memorializing the dead;
 6 ~~(5)~~(E) any agricultural property or agricultural infrastructure;
 7 ~~(6)~~(F) any construction, mining or recycling facility, structure or site;
 8 ~~(7)~~(G) any utility, utility service, telecommunication,
 9 telecommunication service, cable or video service facility, property,
 10 building, structure, site or component thereof;
 11 ~~(8)~~(H) any municipal, county or state building, structure, site or
 12 property;
 13 ~~(9)~~(I) any residential, commercial, industrial or agricultural irrigation,
 14 sprinkler or watering system or component thereof;
 15 ~~(10)~~(J) the infrastructure of any residence, building or structure;
 16 ~~(11)~~(K) any historical marker, plaque or work of art;
 17 ~~(12)~~(L) any vehicle or transportation building, facility, structure, site
 18 or property; or
 19 ~~(13)~~(M) any other building, structure, residence, facility, site, place,
 20 property, vehicle or any infrastructure thereof.
- 21 (c) Criminal damage to property if the property:
 22 (1) Is damaged to the extent of \$25,000 or more is a severity level 7,
 23 nonperson felony;
 24 (2) is damaged to the extent of at least \$1,000 but less than \$25,000 is
 25 a severity level 9, nonperson felony; and
 26 (3) damaged is of the value of less than \$1,000 or is of the value of
 27 \$1,000 or more and is damaged to the extent of less than \$1,000 is a class
 28 B nonperson misdemeanor.
- 29 (d) Aggravated criminal damage to property is a severity level 6,
 30 nonperson felony.
- 31 (e) (1) As used in subsection (b):
 32 (A) "Infrastructure" includes any fixture to, attachment upon or part
 33 of a residence, building or structure's framework, electrical wiring and
 34 appurtenances, plumbing or heating and air systems; and
 35 (B) "site" includes any area, place or location set aside for specific
 36 use or uses, including, but not limited to, storage, staging, repair, sorting,
 37 transportation, planning or organization.
- 38 (2) Any of the items or locations listed in subsection (b) shall include
 39 the curtilage, adjoining land and any improvements thereupon.
- 40 (3) Nothing in subsection (b) shall be construed to require the:
 41 (A) Construction or existence of any door, gate, fence, barrier or wall;
 42 or
 43 (B) existence of notice, postings or signs to potential trespassers.

1 (f) In determining the amount of damage to property, damages may
2 include the cost of repair or replacement of the property that was damaged,
3 the reasonable cost of the loss of production, crops and livestock,
4 reasonable labor costs of any kind, reasonable material costs of any kind
5 and any reasonable costs that are attributed to equipment that is used to
6 abate or repair the damage to the property.

7 Sec. 3. K.S.A. 2021 Supp. 21-5801 and 21-5813 are hereby repealed.

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