

2022 -- S 2553

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO CRIMINAL OFFENSES - THEFT, EMBEZZLEMENT, FALSE PRETENSES,
AND MISAPPROPRIATION

Introduced By: Senators Bell, Euer, and Calkin

Date Introduced: March 01, 2022

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-41-5 and 11-41-20 of the General Laws in Chapter 11-41 entitled
2 "Theft, Embezzlement, False Pretenses, and Misappropriation" are hereby amended to read as
3 follows:

4 **11-41-5. Penalties for larceny.**

5 (a) Any person convicted of any offense under §§ 11-41-1 -- 11-41-6, except § 11-41-3,
6 shall be punished as follows, according to the value of the property or money stolen, received,
7 embezzled, fraudulently appropriated, converted, or obtained, received, taken, or secreted by false
8 pretenses or otherwise with intent to cheat, defraud, embezzle, or fraudulently convert:

9 (1) If the value is less than or equal to twenty-five dollars (\$25.00), the person shall be
10 punished by up to twenty (20) hours of community service, as ordered by the court, or by a fine of
11 not more than fifty dollars (\$50.00), or both; and

12 (2) If the value exceeds twenty-five dollars (\$25.00), but is less than or equal to two
13 hundred fifty dollars (\$250), for a first offense under this chapter, the person shall be punished by
14 up to twenty (20) hours of community service, as ordered by the court, or by a fine of not more
15 than fifty dollars (\$50.00), or both; and

16 (3) If the value exceeds twenty-five dollars (\$25.00), but is less than or equal to two
17 hundred fifty dollars (\$250), for a second or subsequent offense under this chapter, the person shall
18 be punished by imprisonment for not more than three (3) months, or by a fine of not more than two

1 hundred fifty dollars (\$250), or both; and

2 (4) If the value exceeds two hundred fifty dollars (\$250), but is less than or equal to one
3 thousand dollars (\$1,000), for a first offense under this chapter, the person shall be punished by
4 imprisonment for not more than three (3) months, or by a fine of not more than two hundred fifty
5 dollars (\$250), or both; and

6 (5) If the value exceeds two hundred fifty dollars (\$250), but is less than or equal to one
7 thousand dollars (\$1,000), for a second or subsequent offense under this chapter, the person shall
8 be punished by imprisonment for not more than six (6) months, or by a fine of not more than two
9 hundred fifty dollars (\$250), or both; and

10 (6) If the value exceeds one thousand dollars (\$1000), but is less than or equal to one
11 thousand five hundred dollars (\$1,500), the person shall be punished by imprisonment for not more
12 than three hundred sixty-four (364) days, or by a fine of not more than five hundred dollars (\$500),
13 or both.

14 ~~(4)~~(7) If the value exceeds one thousand five hundred dollars (\$1,500), and is less than or
15 equal to five thousand dollars (\$5,000), the person shall be punished by imprisonment for not more
16 than three (3) years or by a fine of not more than one thousand five hundred dollars (\$1,500), or
17 both;

18 ~~(2)~~(8) If the value exceeds five thousand dollars (\$5,000), but is less than or equal to ten
19 thousand dollars (\$10,000), the person shall be punished by imprisonment for not more than six (6)
20 years or by a fine of not more than three thousand dollars (\$3,000), or both; and

21 ~~(3)~~(9) If the value exceeds ten thousand dollars (\$10,000), or if the property is a firearm as
22 defined in § 11-47-5.1, regardless of its value, the person shall be punished by imprisonment for
23 not more than ten (10) years or by a fine of not more than five thousand dollars (\$5,000), or both.

24 ~~If the value does not exceed one thousand five hundred dollars (\$1,500), the person shall be~~
25 ~~punished by imprisonment for not more than one year, or by a fine of not more than five hundred~~
26 ~~dollars (\$500), or both. Any person convicted of an offense under § 11-41-2 who shall be found to~~
27 ~~have knowingly obtained the property from a person under eighteen (18) years of age,~~
28 ~~notwithstanding the value of the property or money, shall be punished by imprisonment for not~~
29 ~~more than ten (10) years or by a fine of not more than five thousand dollars (\$5,000), or both.~~

30 (b) All monetary amounts with regard to the value of the item(s) stolen shall be increased
31 annually to reflect the rate of median income growth as adjusted by the percentage of change in
32 Rhode Island median household income. ~~Any person convicted of an offense in violation of §§ 11-~~
33 ~~41-1—11-41-7, except § 11-41-3, that involves a victim who is a person sixty five (65) years of~~
34 ~~age or older at the time of the offense and which involves property or money stolen, received,~~

~~embezzled, fraudulently appropriated, converted, or obtained, received, taken, or secreted by false pretenses or otherwise with intent to cheat, defraud, embezzle, or fraudulently convert, with a value in excess of five hundred dollars (\$500), shall be punished by imprisonment for not less than two (2) years but not more than fifteen (15) years or by a fine of not more than five thousand dollars (\$5,000), or both. If the value of the property or money does not exceed five hundred dollars (\$500), the person shall be punished by imprisonment for not less than one year but not more than five (5) years or by a fine of not more than three thousand dollars (\$3,000), or both.~~

(c) In addition to any other penalties pursuant to this section, an elected official or candidate for office convicted of violating § 11-41-1, § 11-41-2, § 11-41-3, or § 11-41-4 where the theft is a campaign account created, pursuant to title 17, for the benefit of the person so convicted, all restitution shall be deposited into the Rhode Island crime victim compensation program fund and not into the campaign account of that person convicted of the offense.

11-41-20. Shoplifting.

(a) For the purpose of this section:

(1) "Conceal" means to place merchandise in such a manner that it is not visible through ordinary observation.

(2) "Full retail value" means the merchant's stated price of the merchandise.

(3) "Merchandise" means any items of tangible personal property offered for sale within a retail mercantile establishment.

(4) "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, officer, or director of the owner or operator.

(5) "Premises of a retail mercantile establishment" includes the retail mercantile establishment, and common use areas in shopping centers, and all parking areas set aside by a merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of the retail mercantile establishment.

(6) "Retail mercantile establishment" means any place where merchandise is displayed, held, stored or offered for sale to the public.

(7) "Shopping cart" means those push carts of the type or types which are commonly provided by grocery stores, drug stores, or other retail mercantile establishments for the use of the public in transporting commodities on or from the premises of the retail mercantile establishment.

(b) Whoever shall engage in the following shall be guilty of the crime of shoplifting:

(1) Take possession of, carry away, transfer or cause to be carried away or transferred any merchandise displayed, held, stored, or offered for sale by a retail mercantile establishment with the intention of depriving the merchant of all or any part of the full retail value of the merchandise;

1 (2) Alter, transfer, or remove a label, price tag, marking, indicia of value or any other
2 markings which aid in determining value affixed to any merchandise displayed, held, stored or
3 offered for sale in a retail mercantile establishment and attempt to purchase or purchase the
4 merchandise personally or in consort with another at less than the full retail value with the intention
5 of depriving the merchant of all or any part of the full retail value of such merchandise;

6 (3) Transfer any merchandise displayed, held, stored or offered for sale in a retail
7 mercantile establishment from one container to another in an attempt to purchase or purchase the
8 merchandise personally or in consort with another at less than the full retail value with the intention
9 of depriving the merchant of all or any part of the full retail value of the merchandise; or

10 (4) Remove a shopping cart from the premises of a retail mercantile establishment without
11 the consent of the merchant given at the time of the removal with the intention of depriving the
12 merchant of the possession, use, or benefit of the cart.

13 (c) The fact that a person conceals upon his person, among his or her belongings, or upon
14 the person or among the belongings of another merchandise displayed, held, stored or offered for
15 sale in a retail mercantile establishment, for which he or she has not paid the full retail value, and
16 the merchandise has been taken beyond the area within the retail mercantile establishment where
17 payment for it is to be made, shall be prima facie evidence that the person has possessed, carried
18 away, or transferred the merchandise with the intention of depriving the merchant of all or part of
19 the full retail value of the merchandise without paying the full retail value of the merchandise.

20 (d) Any person convicted of the crime of shoplifting ~~shall be guilty of a misdemeanor and~~
21 shall be punished by a fine of not less than fifty dollars (\$50.00) or two times the full retail value
22 of the merchandise, whichever is greater, but not more than five hundred dollars (\$500); ~~or by~~
23 ~~imprisonment for not more than one year, or both; provided, any person convicted of the crime of~~
24 ~~shoplifting merchandise with a retail value of over one hundred dollars (\$100) who has previously~~
25 ~~been convicted of shoplifting shall be guilty of a felony and shall be punished by a fine of not more~~
26 ~~than five thousand dollars (\$5,000), or by imprisonment of not more than five (5) years, or both.~~

27 (1) If the value does not exceed twenty-five dollars (\$25.00), shall be punished by to up to
28 twenty (20) hours of community service, as ordered by the court; or

29 (2) If the value exceeds twenty-five dollars (\$25.00), but is less than or equal to two
30 hundred fifty dollars (\$250), for a first offense under this chapter, shall be punished by to up to
31 twenty (20) hours of community service, as ordered by the court; or

32 (3) If the value exceeds twenty-five dollars (\$25.00), but is less than or equal to two
33 hundred fifty dollars (\$250), for a second or subsequent offense under this chapter, shall be
34 punished by imprisonment for not more than three (3) months; or

1 (4) If the value exceeds two hundred fifty dollars (\$250), but is less than or equal to one
2 thousand dollars (\$1000), for a first offense under this chapter, shall be punished by imprisonment
3 for not more than three (3) months; or

4 (5) If the value exceeds two hundred fifty dollars (\$250), but is less than or equal to one
5 thousand dollars (\$1000), for a second or subsequent offense under this chapter, shall be punished
6 by imprisonment for not more than six (6) months; or

7 (e) No person shall be charged with the offense of shoplifting if they are charged with
8 another offense for the same act.

9 (f) All monetary amounts with regard to the value of merchandise shall be increased
10 annually to reflect the rate of median income growth as adjusted by the percentage of change in
11 Rhode Island median household income.

12 SECTION 3. Section 11-41-24 of the General Laws in Chapter 11-41 entitled "Theft,
13 Embezzlement, False Pretenses, and Misappropriation" is hereby repealed.

14 **11-41-24. Habitual offender.**

15 ~~Any person who shall be convicted three (3) times for the crime of shoplifting as defined~~
16 ~~in § 11-41-20 or larceny as defined in § 11-41-1 or receiving stolen goods as defined in § 11-41-2,~~
17 ~~or who shall have been convicted three (3) times of any combination of the crimes described in this~~
18 ~~section, shall also be charged as an habitual offender and, upon conviction, shall be fined not less~~
19 ~~than two hundred dollars (\$200) nor more than five hundred dollars (\$500) and shall be imprisoned~~
20 ~~not less than six (6) months nor more than one year.~~

21 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL OFFENSES - THEFT, EMBEZZLEMENT, FALSE PRETENSES,
AND MISAPPROPRIATION

1 This act would provide for tiered and reduced penalties for the offenses of larceny, and
2 shoplifting. This act would further provide that the offense of shoplifting, under two hundred fifty
3 dollars (\$250), for a first offense, or under twenty-five dollars (\$25.00), for a second or third
4 offense, would no longer be classified as a misdemeanor. This act would also repeal the habitual
5 offender mandatory minimum statute.

6 This act would take effect upon passage.

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