

1 HB86  
2 204411-1  
3 By Representative Hill  
4 RFD: Judiciary  
5 First Read: 04-FEB-20  
6 PFD: 02/03/2020

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8 SYNOPSIS: Under existing law, theft of property  
9 offenses have threshold amounts established for  
10 each offense.

11 This bill would revise the threshold amounts  
12 for theft of property offenses.

13 This bill would also make nonsubstantive,  
14 technical revisions to update the existing code  
15 language to current style.

16 Amendment 621 of the Constitution of Alabama  
17 of 1901, now appearing as Section 111.05 of the  
18 Official Recompilation of the Constitution of  
19 Alabama of 1901, as amended, prohibits a general  
20 law whose purpose or effect would be to require a  
21 new or increased expenditure of local funds from  
22 becoming effective with regard to a local  
23 governmental entity without enactment by a 2/3 vote  
24 unless: it comes within one of a number of  
25 specified exceptions; it is approved by the  
26 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to  
2 the entity for the purpose.

3 The purpose or effect of this bill would be  
4 to require a new or increased expenditure of local  
5 funds within the meaning of the amendment.

6 However, the bill does not require approval of a  
7 local governmental entity or enactment by a 2/3  
8 vote to become effective because it comes within  
9 one of the specified exceptions contained in the  
10 amendment.

11  
12 A BILL  
13 TO BE ENTITLED  
14 AN ACT  
15

16 Relating to crimes and offenses; to amend Sections  
17 13A-8-1, 13A-8-3, 13A-8-4, 13A-8-4.1, and 13A-8-5, Code of  
18 Alabama 1975, to amend the threshold amounts for theft of  
19 property offenses; to make nonsubstantive, technical revisions  
20 to update the existing code language to current style; and in  
21 connection therewith would have as its purpose or effect the  
22 requirement of a new or increased expenditure of local funds  
23 within the meaning of Amendment 621 of the Constitution of  
24 Alabama of 1901, now appearing as Section 111.05 of the  
25 Official Recompilation of the Constitution of Alabama of 1901,  
26 as amended.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. Sections 13A-8-1, 13A-8-3, 13A-8-4,  
2                   13A-8-4.1, and 13A-8-5, Code of Alabama 1975, are amended to  
3                   read as follows:

4                   "§13A-8-1.

5                   "The following definitions are applicable in this  
6                   article unless the context otherwise requires:

7                   "(1) DECEPTION occurs when a person knowingly does  
8                   any of the following:

9                   "a. Creates or confirms another's impression which  
10                  is false and which the defendant does not believe to be true;  
11                  ~~or.~~

12                  "b. Fails to correct a false impression which the  
13                  defendant previously has created or confirmed;~~or.~~

14                  "c. Fails to correct a false impression when the  
15                  defendant is under a duty to do so;~~or.~~

16                  "d. Prevents another from acquiring information  
17                  pertinent to the disposition of the property involved;~~or.~~

18                  "e. Sells or otherwise transfers or encumbers  
19                  property, failing to disclose a lien, adverse claim, or other  
20                  legal impediment to the enjoyment of the property when the  
21                  defendant is under a duty to do so, whether that impediment is  
22                  or is not valid, or is not a matter of official record;~~or.~~

23                  "f. Promises performance which the defendant does  
24                  not intend to perform or knows will not be performed. Failure  
25                  to perform, standing alone, however, is not proof that the  
26                  defendant did not intend to perform.

1           "g. Deception ~~The term "deception"~~ does not,  
2 however, include falsity as to matters having no pecuniary  
3 significance, or puffing by statements unlikely to deceive  
4 ordinary persons. ~~"Puffing"~~ For the puposes of this paragraph,  
5 puffing means an exaggerated commendation of wares or  
6 services.

7           "(2) ~~To "DEPRIVE..." means.~~ Any of the following:

8           "a. To withhold property or cause it to be withheld  
9 from a person permanently or for such period or under such  
10 circumstances that all or a portion of its use or benefit  
11 would be lost to him or her;~~or.~~

12           "b. To dispose of the property so as to make it  
13 unlikely that the owner would recover it;~~or.~~

14           "c. To retain the property with intent to restore it  
15 to the owner only if the owner purchases or leases it back, or  
16 pays a reward or other compensation for its return;~~or.~~

17           "d. To sell, give, pledge, or otherwise transfer any  
18 interest in the property;~~or.~~

19           "e. To subject the property to the claim of a person  
20 other than the owner.

21           "(3) FIFTH WHEEL. Coupling between a trailer and a  
22 vehicle used for towing.

23           "(4) FINANCIAL INSTITUTION. A bank, insurance  
24 company, credit union, safety deposit company, savings and  
25 loan association, investment trust, or other organization held  
26 out to the public as a place of deposit of funds or medium of  
27 savings or collective investment.

1           "(5) FIREARM. A weapon from which a shot is  
2 discharged by gunpowder.

3           "(6) GOVERNMENT. The United States, any state or any  
4 county, municipality, or other political unit within territory  
5 belonging to the United States, or any department, agency, or  
6 subdivision of any of the foregoing, or any corporation or  
7 other association carrying out the functions of government, or  
8 any corporation or agency formed pursuant to interstate  
9 compact or international treaty.

10           ~~"As used in this definition "state" includes any~~  
11 ~~state, territory, or possession of the United States, the~~  
12 ~~District of Columbia, and the Commonwealth of Puerto Rico.~~

13           "(7) OBTAINS. ~~Such term means~~ Either of the  
14 following:

15           "a. In relation to property, to bring about a  
16 transfer or purported transfer of a legally recognized  
17 interest in the property, whether to the obtainer or another~~r~~  
18 ~~or.~~

19           "b. In relation to labor or service, to secure  
20 performance thereof.

21           "(8) OBTAINS OR EXERTS CONTROL or OBTAINS OR EXERTS  
22 UNAUTHORIZED CONTROL over property includes but is not  
23 necessarily limited to the taking, carrying away, or the sale,  
24 conveyance, or transfer of title to, or interest in, or  
25 possession of, property, and includes but is not necessarily  
26 limited to conduct heretofore defined or known as common law  
27 larceny by trespassory taking, common law larceny by trick,

1 larceny by conversion, embezzlement, extortion, or obtaining  
2 property by false pretenses.

3 "(9) OWNER.

4 "a. A person, other than the defendant, who has  
5 possession of or any other interest in the property involved,  
6 even though that interest or possession is unlawful, and  
7 without whose consent the defendant has no authority to exert  
8 control over the property.

9 "b. A secured party, as defined in Section  
10 7-9A-102~~(a)~~(72), is not an owner in relation to a defendant  
11 who is a debtor, as defined in Section 7-9A-102~~(a)~~(28), in  
12 respect of property in which the secured party has a security  
13 interest, as defined in Section 7-1-201~~(37)~~.

14 "(10) PROPELLED VEHICLE. Any propelled device in,  
15 upon, or by which any person or property is transported on  
16 land, water, or in the air, and such term includes motor  
17 vehicles, motorcycles, motorboats, aircraft, and any vessel  
18 propelled by machinery, whether or not that machinery is the  
19 principal source of propulsion.

20 "(11) PROPERTY.

21 "a. Any money, tangible or intangible personal  
22 property, property ~~†, whether real or personal†~~, the location  
23 of which can be changed ~~†, including things growing on, affixed~~  
24 to, or found in land and documents, although the rights  
25 represented hereby have no physical location†, contract right,  
26 chose-in-action, interest in a claim to wealth, credit, or any  
27 other article or thing of value of any kind.

1           **b.** Commodities of a public utility nature, such as  
2 gas, electricity, steam, and water, constitute property, but  
3 the supplying of ~~such a~~ the commodity to premises from an  
4 outside source by means of wires, pipes, conduits, or other  
5 equipment shall be deemed a rendition of a service rather than  
6 a sale or delivery of property.

7           "(12) RECEIVING. ~~Such term includes~~ Includes, but is  
8 not limited to, acquiring possession, control, or title and  
9 taking a security interest in the property.

10           "(13) STATE. Includes any state, territory, or  
11 possession of the United States, the District of Columbia, and  
12 the Commonwealth of Puerto Rico.

13           "~~(13)~~ (14) STOLEN. Obtained by theft, theft by  
14 appropriating lost property, robbery, or extortion.

15           "~~(14)~~ (15) THREAT. A menace, however communicated,  
16 to that has the intent to do any of the following:

17           "a. Cause physical harm to the person threatened or  
18 to any other person;~~or.~~

19           "b. Cause damage to property;~~or.~~

20           "c. Subject the person threatened or any other  
21 person to physical confinement or restraint;~~or.~~

22           "d. Engage in other conduct constituting a crime;  
23 ~~or.~~

24           "e. Accuse any person of a crime or cause criminal  
25 charges to be instituted against any person;~~or.~~



1 "f. Expose a secret or publicize an asserted fact,  
2 whether true or false, tending to subject any person to  
3 hatred, contempt, or ridicule;~~or.~~

4 "g. Reveal any information sought to be concealed by  
5 the person threatened;~~or.~~

6 "h. Testify or provide information or withhold  
7 testimony or information with respect to another's legal claim  
8 or defense;~~or.~~

9 "i. Take action as an official against anyone or  
10 anything, or withhold official action, or cause such action or  
11 withholding;~~or.~~

12 "j. Bring about or continue a strike, boycott, or  
13 other similar collective action to obtain property which is  
14 not demanded or received for the benefit of the group which  
15 the actor purports to represent;~~or.~~

16 "k. Do any other act which would not in itself  
17 substantially benefit the actor but which is calculated to  
18 harm substantially another person with respect to his or her  
19 health, safety, business, calling, career, financial  
20 condition, reputation, or personal relationships.

21 "~~(15)~~ (16) VALUE.

22 "a. The market value of the property at the time and  
23 place of the criminal act.

24 "b. Whether or not they have been issued or  
25 delivered, certain written instruments, not including those  
26 having a readily ascertainable market value such as some

1 public and corporate bonds and securities shall be evaluated  
2 as follows:

3 "~~a.~~ 1. The value of an instrument constituting an  
4 evidence of debt, such as a check, draft, or promissory note,  
5 shall be deemed the amount due or collectible thereon or  
6 thereby, that figure ordinarily being the face amount of the  
7 indebtedness less any portion thereof which has been  
8 satisfied.

9 "~~b.~~ 2. The value of any other instrument that  
10 creates, releases, discharges, or otherwise affects any  
11 valuable legal right, privilege, or obligation shall be deemed  
12 the greatest amount of economic loss which the owner of the  
13 instrument might reasonably suffer by virtue of the loss of  
14 the instrument.

15 "c. When the value of property cannot be ascertained  
16 pursuant to the standards set forth above, its value shall be  
17 deemed to be an amount not exceeding five hundred dollars  
18 (\$500).

19 "d. Amounts involved in thefts committed pursuant to  
20 one scheme or course of conduct, whether from the same person  
21 or several persons, may be aggregated in determining the grade  
22 of the offense; provided, that only one conviction may be had  
23 and only one sentence enforced for all thefts included in such  
24 aggregate.

25 "§13A-8-3.

26 "(a) The theft of property ~~which~~ that exceeds ~~two~~  
27 three thousand five hundred dollars ~~(\$2,500)~~ (\$3,500) in value

1 ~~, or property of any value taken from the person of another,~~  
2 constitutes theft of property in the first degree.

3 "(b) The theft of property of any value taken from  
4 the person of another constitutes theft of property in the  
5 first degree.

6 ~~"(b) (c)~~ The theft of a motor vehicle, regardless of  
7 its value, constitutes theft of property in the first degree.

8 ~~"(c) (d)~~ (1) The theft of property ~~which~~ that  
9 involves all of the following constitutes theft of property in  
10 the first degree:

11 "a. The theft is a common plan or scheme by one or  
12 more persons; ~~and.~~

13 "b. The object of the common plan or scheme is to  
14 sell or transfer the property to another person or business  
15 that buys the property with knowledge or reasonable belief  
16 that the property is stolen; ~~and.~~

17 "c. The aggregate value of the property stolen is at  
18 least ~~one~~ two thousand dollars ~~(\$1,000)~~ (\$2,000) within a  
19 180-day period.

20 "(2) If the offense under this subsection involves  
21 two or more counties, prosecution may be commenced in any one  
22 of those counties in which the offense occurred or in which  
23 the property was disposed.

24 ~~"(d) (e)~~ Theft of property in the first degree is a  
25 Class B felony.

26 "§13A-8-4.

1           "(a) The theft of property ~~between one~~ that exceeds  
2 two thousand five hundred dollars ~~(\$1,500)~~ (\$2,500) in value  
3 ~~and two,~~ but does not exceed three thousand five hundred  
4 dollars ~~(\$2,500)~~ (\$3,500) in value, and ~~which~~ is not taken  
5 from the person of another, constitutes theft of property in  
6 the second degree.

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

9           "~~(c)~~ (b) The theft of a firearm, rifle, or shotgun,  
10 regardless of its value, constitutes theft of property in the  
11 second degree.

12           "~~(d)~~ (c) The theft of any substance controlled by  
13 Chapter 2 of Title 20 or any amendments thereto, regardless of  
14 value, constitutes theft of property in the second degree.

15           "~~(e)~~ (d) The theft of any livestock which includes  
16 cattle, swine, equine or equidae, or sheep, regardless of  
17 their value, constitutes theft of property in the second  
18 degree.

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

21           "§13A-8-4.1.

22           "(a) The theft of property that exceeds one thousand  
23 five hundred dollars ~~(\$500)~~ (\$1,500) in value, but does not  
24 exceed one thousand four hundred and ninety-nine dollars  
25 ~~(\$1,499)~~ two thousand five hundred dollars (\$2,500) in value,  
26 and ~~which~~ is not taken from the person of another, constitutes  
27 theft of property in the third degree.

1           ~~"(b) Theft of property in the third degree is a~~  
2 ~~Class D felony.~~

3           ~~"(c) (b)~~ The theft of a credit card or a debit card,  
4 regardless of its value, constitutes theft of property in the  
5 third degree.

6           "(c) Theft of property in the third degree is a  
7 Class D felony.

8           "§13A-8-5.

9           "(a) The theft of property ~~which~~ that does not  
10 exceed one thousand five hundred dollars ~~(\$500)~~ (\$1,500) in  
11 value, and ~~which~~ is not taken from the person of another, and  
12 constitutes theft of property in the fourth degree.

13           "(b) Theft of property in the fourth degree is a  
14 Class A misdemeanor."

15           Section 2. Although this bill would have as its  
16 purpose or effect the requirement of a new or increased  
17 expenditure of local funds, the bill is excluded from further  
18 requirements and application under Amendment 621, now  
19 appearing as Section 111.05 of the Official Recompilation of  
20 the Constitution of Alabama of 1901, as amended, because the  
21 bill defines a new crime or amends the definition of an  
22 existing crime.

23           Section 3. This act shall become effective on the  
24 first day of the third month following its passage and  
25 approval by the Governor, or its otherwise becoming law.