

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 523
HOUSE BILL 180

AN ACT TO AMEND THE DOLLAR AMOUNT FOR WHICH CERTAIN
PROPERTY OFFENSES ARE DESIGNATED FELONIES RATHER THAN
MISDEMEANORS AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-107 reads as rewritten:

"§ 14-107. Worthless checks.

It shall be unlawful for any person, firm or corporation, to draw, make, utter or issue and deliver to another, any check or draft on any bank or depository, for the payment of money or its equivalent, knowing at the time of the making, drawing, uttering, issuing and delivering such check or draft as aforesaid, that the maker or drawer thereof has not sufficient funds on deposit in or credit with such bank or depository with which to pay the same upon presentation.

It shall be unlawful for any person, firm or corporation to solicit or to aid and abet any other person, firm or corporation to draw, make, utter or issue and deliver to any person, firm or corporation, any check or draft on any bank or depository for the payment of money or its equivalent, being informed, knowing or having reasonable grounds for believing at the time of the soliciting or the aiding and abetting that the maker or the drawer of the check or draft has not sufficient funds on deposit in, or credit with, such bank or depository with which to pay the same upon presentation.

The word 'credit' as used herein shall be construed to mean an arrangement or understanding with the bank or depository for the payment of any such check or draft.

~~Any person, firm or corporation violating any provision of this section shall be guilty of a misdemeanor and upon conviction shall be punished as follows: A violation of this section shall be a Class J felony if the amount of the check or draft is more than two thousand dollars (\$2,000). If the amount of the check or draft is two thousand dollars (\$2,000) or less, a violation of this section shall be a misdemeanor punishable as follows:~~

- (1) If ~~such the~~ amount of the check or draft is not over ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00), the punishment shall be by a fine not to exceed fifty dollars (\$50.00) or imprisonment for not more than 30 days. Provided, however, if such person has been convicted three times of violating G.S. 14-107, he shall on the fourth and all subsequent convictions (i) be punished in the discretion of the district or superior court as for a general misdemeanor and (ii) be ordered, as a

condition of probation, to refrain from maintaining a checking account or making or uttering a check for three years.

- (2) If the amount of ~~such the~~ check or draft is over ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00), the punishment shall be by a fine not to exceed ~~five hundred dollars (\$500.00)~~ two hundred fifty dollars (\$250.00) or imprisonment for not more than six months, or both. Provided, however, if such person has been convicted three times of violating G.S. 14-107, he shall on the fourth and all subsequent convictions (i) be punished in the discretion of the district or superior court as for a general misdemeanor and (ii) be ordered, as a condition of probation, to refrain from maintaining a checking account or making or uttering a check for three years.
- (3) If ~~such the~~ check or draft is drawn upon a nonexistent account, the punishment shall be by a fine not to exceed one thousand dollars (\$1,000) or imprisonment for not more than two years, or both.
- (4) If ~~such the~~ check or draft is drawn upon an account that has been closed by the drawer prior to time the check is drawn, the punishment shall be a fine not to exceed four hundred dollars (\$400.00) or imprisonment for not more than five months or both.
- (5) ~~In deciding to impose any sentence other than an~~

In deciding to impose any sentence other than an active prison sentence, the sentencing judge shall consider and may require, in accordance with the provisions of G.S. 15A-1343, restitution to the victim for the amount of the check or draft and each prosecuting witness (whether or not under subpoena) shall be entitled to a witness fee as provided by G.S. 7A-314 which shall be taxed as part of the cost and assessed to the defendant."

Sec. 2. G.S. 14-72 reads as rewritten:

"§ 14-72. Larceny of property; receiving stolen goods or possessing stolen goods ~~not exceeding \$400.00 in value.~~

(a) Larceny of goods of the value of more than ~~four hundred dollars (\$400.00)~~ one thousand dollars (\$1,000) is a Class H felony. The receiving or possessing of stolen goods of the value of more than ~~four hundred dollars (\$400.00)~~ one thousand dollars (\$1,000) while knowing or having reasonable grounds to believe that the goods are stolen is a Class H felony. Larceny as provided in subsection (b) of this section is a Class H felony. Receiving or possession of stolen goods as provided in subsection (c) of this section is a Class H felony. Except as provided in subsections (b) and (c) of this section, larceny of property, or the receiving or possession of stolen goods knowing or having reasonable grounds to believe them to be stolen, where the value of the property or goods is not more than ~~four hundred dollars (\$400.00)~~, one thousand dollars (\$1,000), is a misdemeanor punishable under G.S. 14-3(a). In all cases of doubt, the jury shall, in the verdict, fix the value of the property stolen.

(b) The crime of larceny is a felony, without regard to the value of the property in question, if the larceny is:

- (1) From the person; or

- (2) Committed pursuant to a violation of G.S. 14-51,14-53, 14-54 or 14-57; or
- (3) Of any explosive or incendiary device or substance. As used in this section, the phrase 'explosive or incendiary device or substance' shall include any explosive or incendiary grenade or bomb; any dynamite, blasting powder, nitroglycerin, TNT, or other high explosive; or any device, ingredient for such device, or type or quantity of substance primarily useful for large-scale destruction of property by explosive or incendiary action or lethal injury to persons by explosive or incendiary action. This definition shall not include fireworks; or any form, type, or quantity of gasoline, butane gas, natural gas, or any other substance having explosive or incendiary properties but serving a legitimate nondestructive or nonlethal use in the form, type, or quantity stolen.
- (4) Of any firearm. As used in this section, the term 'firearm' shall include any instrument used in the propulsion of a shot, shell or bullet by the action of gunpowder or any other explosive substance within it. A 'firearm,' which at the time of theft is not capable of being fired, shall be included within this definition if it can be made to work. This definition shall not include air rifles or air pistols.
- (5) Of any record or paper in the custody of the North Carolina State Archives as defined by G.S. 121-2(7) and 121-2(8).

(c) The crime of possessing stolen goods knowing or having reasonable grounds to believe them to be stolen in the circumstances described in subsection (b) is a felony or the crime of receiving stolen goods knowing or having reasonable grounds to believe them to be stolen in the circumstances described in subsection (b) is a felony, without regard to the value of the property in question."

Sec. 3. G.S. 14-73 reads as rewritten:

"§ 14-73. Jurisdiction of the superior courts in cases of larceny and receiving stolen goods.

The superior courts shall have exclusive jurisdiction of the trial of all cases of the larceny of property, or the receiving of stolen goods knowing them to be stolen, of the value of more than ~~four hundred dollars (\$400.00)~~ one thousand dollars (\$1,000)."

Sec. 4. G.S. 14-86.1(a) reads as rewritten:

"(a) All conveyances, including vehicles, watercraft or aircraft, used to unlawfully conceal, convey or transport property in violation of G.S. 14-71, 14-71.1, or 20-106, or used by any person in the commission of armed or common-law robbery, or used by any person in the commission of any larceny when the value of the property taken is more than ~~four hundred dollars (\$400.00)~~ two thousand dollars (\$2,000) shall be subject to forfeiture as provided herein, except that:

- (1) No conveyance used by any person as a common carrier in the transaction of the business of the common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in custody or control of such conveyance was a

- consenting party or privy to a violation that may subject the conveyance to forfeiture under this section;
- (2) No conveyance shall be forfeited under the provisions of this section by reason of any act or omission committed or omitted while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or any state;
 - (3) No conveyance shall be forfeited pursuant to this section unless the violation involved is a felony;
 - (4) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party who neither had knowledge of nor consented to the act or omission;
 - (5) No conveyance shall be forfeited under the provisions of this section unless the owner knew or had reason to believe the vehicle was being used in the commission of any violation that may subject the conveyance to forfeiture under this section;
 - (6) The trial judge in the criminal proceeding which may subject the conveyance to forfeiture may order the seized conveyance returned to the owner if he finds forfeiture inappropriate. If the conveyance is not returned to the owner the procedures provided in subsection (e) shall apply."

Sec. 5. G.S. 108A-53(a) reads as rewritten:

"(a) Any person, whether provider or recipient or person representing himself as such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any food stamps or authorization cards to which he is not entitled in the amount of ~~four hundred dollar (\$400.00)~~ two thousand dollars (\$2,000) or less shall be guilty of a misdemeanor. Whoever knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any food stamps or authorization cards to which he is not entitled in an amount more than ~~four hundred dollars (\$400.00)~~ two thousand dollars (\$2,000) shall be guilty of a felony and shall be punished as in cases of larceny."

Sec. 6. This act becomes effective October 1, 1991, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 3rd day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives