

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

ACT 516 OF 1997
HOUSE BILL 1720

4
5 By: Representative Lynn
6
7

For An Act To Be Entitled

8
9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§ 5-36-103,
10 5-36-105, 5-36-106, AND 5-37-207 TO CLARIFY THAT THE
11 OFFENSES OF THEFT AND FRAUDULENT USE OF A CREDIT CARD
12 INCLUDE THE UNLAWFUL USE OF CREDIT CARD ACCOUNT NUMBERS;
13 AND FOR OTHER PURPOSES."

Subtitle

14
15 "CLARIFIES THE OFFENSES OF THEFT AND
16 FRAUDULENT USE OF A CREDIT CARD"
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20

21 SECTION 1. Arkansas Code Annotated § 5-36-103 is amended to read as
22 follows:

23 "5-36-103. Theft of property.

24 (a) A person commits theft of property if he:

25 (1) Knowingly takes or exercises unauthorized control over, or
26 makes an unauthorized transfer of an interest in, the property of another
27 person, with the purpose of depriving the owner thereof; or

28 (2) Knowingly obtains the property of another person, by
29 deception or by threat, with the purpose of depriving the owner thereof.

30 (b)(1) Theft of property is a Class B felony if:

31 (A) The value of the property is two thousand five hundred
32 dollars (\$2,500) or more; or

33 (B) The property is obtained by the threat of serious
34 physical injury to any person or destruction of the occupiable structure of
35 another; or

36 (C) The property is obtained by threat, and the actor

1 stands in a confidential or fiduciary relationship to the person threatened.

2 (2) Theft of property is a Class C felony if:

3 (A) The value of the property is less than two thousand
4 five hundred dollars (\$2,500) but more than five hundred dollars (\$500); or

5 (B) The property is obtained by threat; or

6 (C) The property is a firearm valued at less than two
7 thousand five hundred dollars (\$2,500); or

8 (D) The property is a credit card or credit card account
9 number.

10 (3) Theft of property is a Class C felony if the property is
11 livestock, and the value of the livestock is in excess of two hundred dollars
12 (\$200).

13 (4) Theft of property is a Class A misdemeanor if:

14 (A) The value of the property is five hundred dollars
15 (\$500) or less; or

16 (B) The property has inherent, subjective, or idiosyncratic
17 value to its owner or possessor even if the property has no market value or
18 replacement cost."

19

20 SECTION 2. Arkansas Code Annotated § 5-36-105 is amended to read as
21 follows:

22 "5-36-105. Theft of property lost, mislaid, or delivered by mistake.

23 (a) A person commits theft of property lost, mislaid, or delivered by
24 mistake if he:

25 (1) Comes into control of property of another person; and

26 (2) Retains or disposes of such property when he knows it to have
27 been lost, mislaid, or delivered under a mistake as to the identity of the
28 recipient or as to the nature or amount of the property; and

29 (3) With the purpose of depriving anyone having an interest in
30 the property, he fails to take reasonable measures to restore the property to
31 a person entitled to it.

32 (b)(1) Theft of property lost, mislaid, or delivered by mistake is a
33 Class D felony if the value of the property is one thousand dollars (\$1,000)
34 or more.

35 (2) Theft of property lost, mislaid, or delivered by mistake is a
36 Class B misdemeanor if:

1 (A) The value of the property is less than one thousand
 2 dollars (\$1,000) but more than one hundred dollars (\$100); or

3 (B) The property is a credit card or credit card account
 4 number.

5 (3) Otherwise, theft of property lost, mislaid, or delivered by
 6 mistake is a Class C misdemeanor."

7

8 SECTION 3. Arkansas Code Annotated § 5-36-106 is amended to read as
 9 follows:

10 "5-36-106. Theft by receiving.

11 (a) A person commits the offense of theft by receiving if he receives,
 12 retains, or disposes of stolen property of another person, knowing that it was
 13 stolen or having good reason to believe it was stolen.

14 (b) For purposes of this section, receiving means acquiring
 15 possession, control, or title or lending on the security of the property.

16 (c) The unexplained possession or control by a person of recently
 17 stolen property or the acquisition by a person of property for a consideration
 18 known to be far below its reasonable value shall give rise to a presumption
 19 that he knows or believes that the property was stolen.

20 (d) It is a defense to a prosecution for the offense of theft by
 21 receiving that the property is received, retained, or disposed of with the
 22 purpose of restoring it to the owner or other person entitled to it.

23 (e)(1) Theft by receiving is a Class B felony if the value of the
 24 property is two thousand five hundred dollars (\$2,500) or more.

25 (2) Theft by receiving is a Class C felony if:

26 (A) The value of the property is less than two thousand
 27 five hundred dollars (\$2,500) but more than two hundred dollars (\$200); or

28 (B) The property is a credit card or credit card account
 29 number; or

30 (C) The property is a firearm valued at less than two
 31 thousand five hundred dollars (\$2,500).

32 (3) Otherwise, theft by receiving is a Class A misdemeanor."
 33

34 SECTION 4. Arkansas Code Annotated § 5-37-207 is amended to read as
 35 follows:

36 "5-37-207. Fraudulent use of a credit card.

1 (a) A person commits the offense of fraudulent use of a credit card if,
 2 with purpose to defraud, he uses a credit card or credit card account number
 3 to obtain property or services with knowledge that:

- 4 (1) The card or account number is stolen; or
- 5 (2) The card or account number has been revoked or cancelled; or
- 6 (3) The card or account number is forged; or
- 7 (4) For any other reason his use of the card or account number is
- 8 unauthorized by either the issuer or the person to whom the credit card is
- 9 issued.

10 (b) Fraudulent use of a credit card is a Class C felony if the value of
 11 all money, goods, or services obtained during any six-month period exceeds one
 12 hundred dollars (\$100). Otherwise, it is a Class A misdemeanor."

13

14 SECTION 5. Nothing in this act is intended to prevent a prosecutor from
 15 seeking a Class B felony conviction under Arkansas Code Annotated
 16 § 5-36-103(b) if the value of property stolen with a credit card or account
 17 number exceeds two thousand five hundred dollars (\$2,500).

18

19 SECTION 6. All provisions of this act of a general and permanent nature
 20 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 21 Revision Commission shall incorporate the same in the Code.

22

23 SECTION 7. If any provision of this act or the application thereof to
 24 any person or circumstance is held invalid, such invalidity shall not affect
 25 other provisions or applications of the act which can be given effect without
 26 the invalid provision or application, and to this end the provisions of this
 27 act are declared to be severable.

28

29 SECTION 8. All laws and parts of laws in conflict with this act are
 30 hereby repealed.

31

32

33

APPROVED:3-13-97

34

35