

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

# A Bill

HOUSE BILL 1649

4  
5 By: Representative Kidd  
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## For An Act To Be Entitled

9 AN ACT TO CREATE THE PRIVATE PROPERTY PROTECTION  
10 ACT TO ENHANCE THE PENALTIES FOR THEFT OF CERTAIN  
11 PROPERTY IN AN AREA DECLARED TO BE UNDER A STATE  
12 OF EMERGENCY BY THE GOVERNOR; AND FOR OTHER  
13 PURPOSES.  
14

## Subtitle

15 TO CREATE THE PRIVATE PROPERTY  
16 PROTECTION ACT TO ENHANCE THE PENALTIES  
17 FOR THEFT OF CERTAIN PROPERTY IN AN AREA  
18 DECLARED TO BE UNDER A STATE OF  
19 EMERGENCY BY THE GOVERNOR.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. NOT TO BE CODIFIED. This act shall be known and may be  
26 cited as the "Private Property Protection Act".  
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28 SECTION 2. Arkansas Code § 5-36-103 is amended to read as follows:  
29 5-36-103. Theft of property.

30 (a) A person commits theft of property if he or she knowingly:

31 (1) Takes or exercises unauthorized control over, or makes an  
32 unauthorized transfer of an interest in, the property of another person, with  
33 the purpose of depriving the owner of the property; or

34 (2) Obtains the property of another person, by deception or by  
35 threat, with the purpose of depriving the owner of the property.

36 (b) Theft of property is a:



1 (1) Class B felony if:

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

4 (B) The property is obtained by the threat of serious  
5 physical injury to any person or destruction of the occupiable structure of  
6 another person;

7 (C) The property is obtained by threat, and the actor  
8 stands in a confidential or fiduciary relationship to the person threatened;

9 (D) The property is:

10 (i) Anhydrous ammonia in any form; or

11 (ii) A product containing any percentage of  
12 anhydrous ammonia in any form; ~~or~~

13 (E)(i) The property is building material obtained from a  
14 permitted construction site and the value of the building material is five  
15 hundred dollars (\$500) or more.

16 (ii) As used in subdivision (b)(1)(E)(i) of this  
17 section:

18 (a) "Building material" means lumber, a  
19 construction tool, a window, a door, copper tubing or wire, or any other  
20 material or good used in the construction or rebuilding of a building or a  
21 structure; and

22 (b) "Permitted construction site" means the  
23 site of construction, alteration, painting, or repair of a building or a  
24 structure for which a building permit has been issued by a city of the first  
25 class, a city of the second class, an incorporated town, or a county; or

26 (F) The value of the property is five hundred dollars  
27 (\$500) or more and the theft occurred in an area declared to be under a state  
28 of emergency pursuant to proclamation by the President of the United States,  
29 the Governor, or the executive officer of a city or county;

30 (2) Class C felony if:

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

33 (B) The property is obtained by threat;

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

36 (D) The property is a:

- 1 (i) Credit card or credit card account number; or
- 2 (ii) Debit card or debit card account number; ~~or~~

3 (E) The property is livestock and the value of the  
 4 livestock is in excess of two hundred dollars (\$200); or

5 (F) The value of the property is at least one hundred  
 6 dollars (\$100) but less than five hundred dollars (\$500) and the theft  
 7 occurred in an area declared to be under a state of emergency pursuant to  
 8 proclamation by the President of the United States, the Governor, or the  
 9 executive officer of a city or county;

10 (3)(A) Class D felony if:

- 11 (i) The value of the property is five hundred
- 12 dollars (\$500) or less; and
- 13 (ii) The property was unlawfully obtained during a
- 14 criminal episode.

15 (B) As used in subdivision (b)(3)(A)(ii) of this section,  
 16 “criminal episode” means a series of thefts committed by the same person on  
 17 three (3) or more occasions within three (3) days; or

18 (4) Class A misdemeanor if:

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

21 (B) The property has inherent, subjective, or  
 22 idiosyncratic value to its owner or possessor even if the property has no  
 23 market value or replacement cost.

24 (c)(1) Upon the proclamation of a state of emergency by the President  
 25 of the United States or the Governor or upon the declaration of a local  
 26 emergency by the executive officer of any city or county and for a period of  
 27 thirty (30) days following that declaration, the penalty for theft of  
 28 property is enhanced if the property is:

- 29 (A) A generator intended for use by:
  - 30 (i) A public facility;
  - 31 (ii) A nursing home or hospital;
  - 32 (iii) An airport;
  - 33 (iv) A public safety device;
  - 34 (v) A communication tower or facility;
  - 35 (vi) A public utility;
  - 36 (vii) A water system or sewer system;

1 (viii) A public safety agency; or  
2 (ix) Any other facility or use providing a vital  
3 service; or

4 (B) Any other equipment used in the transmission of  
5 electric power or telephone service.

6 (2) As used in this subsection ~~(e)~~:

7 (A) "Public safety agency" means an agency of the State of  
8 Arkansas or a functional division of a political subdivision that provides:

9 (i) Firefighting and rescue;

10 (ii) Natural or man-caused disaster or major  
11 emergency response;

12 (iii) Law enforcement; or

13 (iv) Ambulance or emergency medical services; and

14 (B) "Public safety device" includes, but is not limited  
15 to, a traffic signaling device or a railroad crossing device.

16 (3) The penalty is enhanced as follows:

17 (A)(i) The fine for the offense shall be at least five  
18 thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000).

19 (ii) The fine is mandatory; and

20 (B) The offense is a Class D felony if it would have been  
21 a Class A misdemeanor.

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