

# HOUSE BILL NO. 498

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES KRATKY (Sponsor), VOGT, RICHARD, JOHNSON (61), CUNNINGHAM (86), BRINGER, SWINGER, WRIGHT-JONES (63), DAUS, SCHOEMEHL, VILLA, PAGE, MEADOWS, ROORDA, CHAPPELLE-NADAL, WALSH, WILDBERGER, BOWMAN, DOUGHERTY, OXFORD, YAEGER, STORCH, HUBBARD, COOPER (155), DONNELLY, DARROUGH, MOORE, CORCORAN, SALVA, SELBY, WOOD, SPRENG, JOHNSON (47), JOLLY, LIESE, KUESSNER, JONES (117), ICET, SCHNEIDER, VIEBROCK, EL-AMIN, LOWE (44) AND BOYKINS (Co-sponsors).

Read 1<sup>st</sup> time February 9, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0788L.011

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### AN ACT

To repeal sections 569.080, 569.090, 570.030, 570.040 and 570.080, RSMo, and to enact in lieu thereof six new sections relating to stealing, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 569.080, 569.090, 570.030, 570.040 and 570.080, RSMo, are  
2 repealed and six new sections enacted in lieu thereof, to be known as sections 559.105, 569.080,  
3 569.090, 570.030, 570.040, and 570.080, to read as follows:

**559.105. 1. Any person who has been convicted of or has pled guilty to a violation  
2 of subdivision (2) of subsection 1 of section 569.080, RSMo, or paragraph (a) of subdivision  
3 (3) of subsection 3 of section 570.030, RSMo, shall be ordered by the court to make  
4 restitution to the victim for the victim's losses due to such offense. Restitution pursuant  
5 to this section shall include, but not be limited to, the following:**

6 **(1) A victim's reasonable expenses, including lost wages, to participate in the  
7 prosecution of the crime;**

8 **(2) A victim's insurance deductible payment for any repairs or replacement of the  
9 motor vehicle, watercraft, or aircraft; and**

10 **(3) A victim's costs associated with towing or storage fees for the motor vehicle  
11 caused by the acts of the defendant.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12           **2. No person ordered by the court to pay restitution pursuant to this section shall**  
13 **be released from probation until such restitution is complete. If full restitution is not made**  
14 **within the original term of probation, the court shall order the maximum term of**  
15 **probation allowed for such offense.**

16           **3. Any person eligible to be released on parole for a violation of subdivision (2) of**  
17 **subsection 1 of section 569.080, RSMo, or paragraph (a) of subdivision (3) of subsection**  
18 **3 of section 570.030, RSMo, shall be required, as a condition of parole, to make restitution**  
19 **pursuant to this section. The board of probation and parole shall not release any person**  
20 **from any term of parole for such offense until the person has completed such restitution,**  
21 **or until the maximum term of parole for such offense has been served.**

569.080. 1. A person commits the crime of tampering in the first degree if:

2           (1) He **or she** for the purpose of causing a substantial interruption or impairment of a  
3 service rendered to the public by a utility or by an institution providing health or safety  
4 protection, damages or tampers with property or facilities of such a utility or institution, and  
5 thereby causes substantial interruption or impairment of service; or

6           (2) He **or she** knowingly receives, possesses, sells, alters, defaces, destroys or unlawfully  
7 operates an automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle  
8 without the consent of the owner thereof.

9           2. Tampering in the first degree is a class C felony.

10           **3. Evidence of the following is admissible in any criminal prosecution of a person**  
11 **under subdivision (2) of subsection 1 of this section to prove the requisite knowledge or**  
12 **belief:**

13           (1) **That he or she received, possessed, sold, altered, defaced, destroyed, or operated**  
14 **an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle**  
15 **unlawfully on a separate occasion;**

16           (2) **That he or she acquired the automobile, airplane, motorcycle, motorboat, or**  
17 **other motor-propelled vehicle for a consideration which he or she knew was far below its**  
18 **reasonable value.**

569.090. 1. A person commits the crime of tampering in the second degree if he **or she**:

2           (1) Tampers with property of another for the purpose of causing substantial  
3 inconvenience to that person or to another; or

4           (2) Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat  
5 or other motor-propelled vehicle; or

6           (3) Tampers or makes connection with property of a utility; or

7           (4) Tampers with, or causes to be tampered with, any meter or other property of an  
8 electric, gas, steam or water utility, the effect of which tampering is either:

- 9 (a) To prevent the proper measuring of electric, gas, steam or water service; or
- 10 (b) To permit the diversion of any electric, gas, steam or water service.

11 2. In any prosecution under subdivision (4) of subsection 1, proof that a meter or any  
12 other property of a utility has been tampered with, and the person or persons accused received  
13 the use or direct benefit of the electric, gas, steam or water service, with one or more of the  
14 effects described in subdivision (4) of subsection 1, shall be sufficient to support an inference  
15 which the trial court may submit to the trier of fact, from which the trier of fact may conclude  
16 that there has been a violation of such subdivision by the person or persons who use or receive  
17 the direct benefit of the electric, gas, steam or water service.

18 3. Tampering in the second degree is a class A misdemeanor unless:

19 (1) Committed as a second or subsequent violation of subdivision (4) of subsection 1,  
20 in which case it is a class D felony;

21 (2) **The defendant has a prior conviction or has had a prior finding of guilt**  
22 **pursuant to paragraph (a) of subdivision (3) of subsection 3 of section 570.030, RSMo,**  
23 **section 570.080, or subdivision (2) of subsection 1 of this section, in which case it is a class**  
24 **C felony.**

570.030. 1. A person commits the crime of stealing if he or she [appropriates]:

2 (1) **Obtains or exerts unauthorized control over** property or services of another with  
3 the purpose to deprive him or her thereof, either without his or her consent or by means of deceit  
4 or coercion; or

5 (2) **Obtains control over property or services knowing the property to have been**  
6 **stolen or under such circumstances as would reasonably induce a person to believe that the**  
7 **property was stolen; or**

8 (3) **Obtains or exerts control over property in the custody of any law enforcement**  
9 **agency which is explicitly represented to him or her by any law enforcement officer or any**  
10 **individual acting on behalf of a law enforcement agency as being stolen; and**

11 (a) **Intends to deprive the owner permanently of the use or benefit of the property;**  
12 **or**

13 (b) **Knowingly uses, conceals, or abandons the property in such manner as to**  
14 **deprive the owner permanently of such use or benefit; or**

15 (c) **Uses, conceals, or abandons the property knowing such use, concealment, or**  
16 **abandonment is likely to deprive the owner permanently of such use or benefit.**

17 2. Evidence of the following is admissible in any criminal prosecution pursuant to this  
18 section on the issue of the requisite knowledge or belief of the alleged stealer:

19 (1) That he or she failed or refused to pay for property or services of a hotel, restaurant,  
20 inn or boardinghouse;

21 (2) That he or she gave in payment for property or services of a hotel, restaurant, inn or  
22 boardinghouse a check or negotiable paper on which payment was refused;

23 (3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not  
24 pay for property or services;

25 (4) That he or she surreptitiously removed or attempted to remove his or her baggage  
26 from a hotel, inn or boardinghouse;

27 (5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters,  
28 transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal  
29 price code label, or possesses with intent to cheat or defraud, the device that manufactures  
30 fraudulent receipts or universal price code labels;

31 **(6) That he or she obtains control over stolen property knowing the property to**  
32 **have been stolen or under such circumstances as would reasonably induce a person to**  
33 **believe that the property was stolen.**

34 3. Notwithstanding any other provision of law, any offense in which the value of  
35 property or services is an element is a class C felony if:

36 (1) The value of the property or services appropriated is five hundred dollars or more but  
37 less than twenty-five thousand dollars; or

38 (2) The actor physically takes the property appropriated from the person of the victim;  
39 or

40 (3) The property appropriated consists of:

41 (a) Any motor vehicle, watercraft or aircraft; or

42 (b) Any will or unrecorded deed affecting real property; or

43 (c) Any credit card or letter of credit; or

44 (d) Any firearms; or

45 (e) A United States national flag designed, intended and used for display on buildings  
46 or stationary flagstaffs in the open; or

47 (f) Any original copy of an act, bill or resolution, introduced or acted upon by the  
48 legislature of the state of Missouri; or

49 (g) Any pleading, notice, judgment or any other record or entry of any court of this state,  
50 any other state or of the United States; or

51 (h) Any book of registration or list of voters required by chapter 115, RSMo; or

52 (i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

53 (j) Live fish raised for commercial sale with a value of seventy-five dollars; or

54 (k) Any controlled substance as defined by section 195.010, RSMo; or

55 (l) Anhydrous ammonia; or

56 (m) Ammonium nitrate.

57           4. If an actor appropriates any material with a value less than five hundred dollars in  
58 violation of this section with the intent to use such material to manufacture, compound, produce,  
59 prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such  
60 violation is a class C felony. The theft of any amount of anhydrous ammonia or liquid nitrogen,  
61 or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class B felony.  
62 The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail  
63 tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

64           5. The theft of any item of property or services pursuant to subsection 3 of this section  
65 which exceeds five hundred dollars may be considered a separate felony and may be charged in  
66 separate counts.

67           6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection  
68 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection  
69 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars  
70 is guilty of a class B felony.

71           7. Any offense in which the value of property or services is an element is a class B felony  
72 if the value of the property or services equals or exceeds twenty-five thousand dollars.

73           8. Any violation of this section for which no other penalty is specified in this section is  
74 a class A misdemeanor.

          570.040. 1. Every person who has previously pled guilty or been found guilty on two  
2 separate occasions of a stealing-related offense where such offenses occurred within ten years  
3 of the date of occurrence of the present offense and where the person received and served a  
4 sentence of ten days or more on such previous offense and who subsequently pleads guilty or is  
5 found guilty of a stealing-related offense is guilty of a class D felony, **unless the subsequent**  
6 **plea or guilty verdict is pursuant to paragraph (a) of subdivision (3) of subsection 3 of**  
7 **section 570.030, in which case the person shall be guilty of a class B felony**, and shall be  
8 punished accordingly.

9           2. As used in this section, the term "stealing-related offense" shall include federal and  
10 state violations of criminal statutes against stealing or buying or receiving stolen property and  
11 shall also include municipal ordinances against same if the defendant was either represented by  
12 counsel or knowingly waived counsel in writing and the judge accepting the plea or making the  
13 findings was a licensed attorney at the time of the court proceedings.

14           3. Evidence of prior guilty pleas or findings of guilt shall be heard by the court, out of  
15 the hearing of the jury, prior to the submission of the case to the jury, and the court shall  
16 determine the existence of the prior guilty pleas or findings of guilt.

          570.080. 1. A person commits the crime of receiving stolen property if for the purpose  
2 of depriving the owner of a lawful interest therein, he **or she** receives, retains or disposes of

3 property of another knowing that it has been stolen, or believing that it has been stolen.

4 2. Evidence of the following is admissible in any criminal prosecution pursuant to this  
5 section to prove the requisite knowledge or belief of the alleged receiver:

6 (1) That he **or she** was found in possession or control of other property stolen on  
7 separate occasions from two or more persons;

8 (2) That he **or she** received other stolen property in another transaction within the year  
9 preceding the transaction charged;

10 (3) That he **or she** acquired the stolen property for a consideration which he **or she** knew  
11 was far below its reasonable value;

12 **(4) That he or she obtained control over stolen property knowing the property to**  
13 **have been stolen or under such circumstances as would reasonably induce a person to**  
14 **believe the property was stolen.**

15 3. Receiving stolen property is a class A misdemeanor unless the property involved has  
16 a value of five hundred dollars or more, or the person receiving the property is a dealer in goods  
17 of the type in question, in which cases receiving stolen property is a class C felony.