

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 698

Short Title: Felony Larceny Amount.

(Public)

Sponsors: Representatives Flaherty; and Bowman.

Referred to: Judiciary I.

April 1, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND LAWS RELATING TO FELONIOUS LARCENY TO MAKE THE THRESHOLD AMOUNT CONSISTENTLY ONE THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-168.1 reads as rewritten:

"§ 14-168.1. Conversion by bailee, lessee, tenant or attorney-in-fact.

Every person entrusted with any property as bailee, lessee, tenant or lodger, or with any power of attorney for the sale or transfer thereof, who fraudulently converts the same, or the proceeds thereof, to his own use, or secretes it with a fraudulent intent to convert it to his own use, shall be guilty of a misdemeanor.

If, however, the value of the property converted or secreted, or the proceeds thereof, is in excess of ~~four hundred dollars (\$400.00)~~, one thousand dollars (\$1,000), every person so converting or secreting it is guilty of a Class H felony. In all cases of doubt the jury shall, in the verdict, fix the value of the property converted or secreted."

Sec. 2. G.S. 15B-7(b) reads as rewritten:

"(b) A person who knowingly and willfully presents or attempts to present a false or fraudulent application, or a State officer or employee who knowingly and willfully participates or assists in the preparation or presentation of a false or fraudulent application is guilty of a misdemeanor if the application is for a claim of not more than ~~four hundred dollars (\$400.00)~~, one thousand dollars (\$1,000). If the application is for a claim of more than ~~four hundred dollars (\$400.00)~~, one thousand dollars (\$1,000), the person is guilty of a Class I felony."

Sec. 3. G.S. 108A-39 reads as rewritten:

"§ 108A-39. Fraudulent misrepresentation.

1 (a) Any person whether provider or recipient, or person representing himself as  
2 such, who willfully and knowingly and with intent to deceive makes a false statement or  
3 representation or who fails to disclose a material fact and as a result of making a false  
4 statement or representation or failing to disclose a material fact obtains, for himself or  
5 another person, attempts to obtain for himself or another person, or continues to receive  
6 or enables another person to continue to receive public assistance in the amount of not  
7 more than ~~four hundred dollars (\$400.00)~~ one thousand dollars (\$1,000) is guilty of a  
8 misdemeanor, and upon conviction or plea of guilty shall be fined or imprisoned or both  
9 at the discretion of the court.

10 (b) Any person, whether provider or recipient, or person representing himself as  
11 such who willfully and knowingly with the intent to deceive makes a false statement or  
12 representation or fails to disclose a material fact and as a result of making a false  
13 statement or representation or failing to disclose a material fact, obtains for himself or  
14 another person, attempts to obtain for himself or another person, or continues to receive  
15 or enables another person to continue to receive public assistance in an amount of more  
16 than ~~four hundred dollars (\$400.00)~~ one thousand dollars (\$1,000) is guilty of a Class I  
17 felony.

18 (c) As used in this section the word 'person' means person, association,  
19 consortium, corporation, body politic, partnership, or other group, entity, or  
20 organization."

21 Sec. 4. G.S. 108A-64(c) reads as rewritten:

22 "(c) (1) A person who violates a provision of this section shall be  
23 guilty of a Class I felony if the value of the assistance wrongfully  
24 obtained is more than ~~four hundred dollars (\$400.00)~~ one thousand  
25 dollars (\$1,000).

26 (2) A person who violates a provision of this section shall be guilty of a  
27 misdemeanor if the value of the assistance wrongfully obtained is ~~four~~  
28 ~~hundred dollars (\$400.00)~~ one thousand dollars (\$1,000) or less, and  
29 shall be punished by a term of imprisonment of not more than two  
30 years or a fine of not more than five hundred dollars (\$500.00), or  
31 both, at the discretion of the court."

32 Sec. 5. G.S. 157-29.1 reads as rewritten:

33 **"§ 157-29.1. Fraudulent misrepresentation.**

34 (a) Any person whether provider or recipient, or person representing himself as  
35 such, who willfully and knowingly and with intent to deceive makes a false statement or  
36 representation or who willfully and knowingly and with intent to deceive fails to  
37 disclose a material fact and as a result of making a false statement or representation or  
38 failing to disclose a material fact obtains, for himself or another person, attempts to  
39 obtain for himself or another person, or continues to receive housing assistance in the  
40 amount or value of not more than ~~four hundred dollars (\$400.00)~~ one thousand dollars  
41 (\$1,000) is guilty of a misdemeanor, and upon conviction or plea of guilty shall be fined  
42 or imprisoned or both at the discretion of the court.

43 (b) Any person whether provider or recipient, or person representing himself as  
44 such, who willfully and knowingly and with intent to deceive makes a false statement or

1 representation or who willfully and knowingly and with intent to deceive fails to  
2 disclose a material fact and as a result of making a false statement or representation or  
3 failing to disclose a material fact obtains, for himself or another person, or continues to  
4 receive housing assistance in the amount or value of more than ~~four hundred dollars~~  
5 ~~(\$400.00)~~ one thousand dollars (\$1,000) is guilty of a Class I felony.

6 (c) As used in this section the word 'person' means person, association,  
7 consortium, body politic, partnership, or other group, entity, or organization."

8 Sec. 6. G.S. 14-398 reads as rewritten:

9 **"§ 14-398. Theft or destruction of property of public libraries, museums, etc.**

10 Any person who shall steal or unlawfully take or detain, or willfully or maliciously  
11 or wantonly write upon, cut, tear, deface, disfigure, soil, obliterate, break or destroy, or  
12 who shall sell or buy or receive, knowing the same to have been stolen, any book,  
13 document, newspaper, periodical, map, chart, picture, portrait, engraving, statue, coin,  
14 medal, apparatus, specimen, or other work of literature or object of art or curiosity  
15 deposited in a public library, gallery, museum, collection, fair or exhibition, or in any  
16 department or office of State or local government, or in a library, gallery, museum,  
17 collection, or exhibition, belonging to any incorporated college or university, or any  
18 incorporated institution devoted to educational, scientific, literary, artistic, historical or  
19 charitable purposes, shall, if the value of the property stolen, detained, sold, bought or  
20 received knowing same to have been stolen, or if the damage done by writing upon,  
21 cutting, tearing, defacing, disfiguring, soiling, obliterating, breaking or destroying any  
22 such property, shall not exceed ~~fifty dollars (\$50.00)~~, one thousand dollars (\$1,000), be  
23 guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the  
24 discretion of the court. If the value of the property stolen, detained, sold or received  
25 knowing same to have been stolen, or the amount of damage done in any of the ways or  
26 manners hereinabove set out, shall exceed the sum of ~~fifty dollars (\$50.00)~~, one thousand  
27 dollars (\$1,000), the person committing same shall be punished as a Class H felon."

28 Sec. 7. G.S. 14-107 reads as rewritten:

29 **"§ 14-107. Worthless checks.**

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

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

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

1 A violation of this section shall be a Class J felony if the amount of the check or  
2 draft is more than ~~two thousand dollars (\$2,000)~~ one thousand dollars (\$1,000). If the  
3 amount of the check or draft is ~~two thousand dollars (\$2,000)~~ one thousand dollars  
4 (\$1,000) or less, a violation of this section shall be a misdemeanor punishable as  
5 follows:

- 6 (1) If the amount of the check or draft is not over one hundred dollars  
7 (\$100.00), the punishment shall be by a fine not to exceed fifty dollars  
8 (\$50.00) or imprisonment for not more than 30 days. Provided,  
9 however, if such person has been convicted three times of violating  
10 G.S. 14-107, he shall on the fourth and all subsequent convictions (i)  
11 be punished in the discretion of the district or superior court as for a  
12 general misdemeanor and (ii) be ordered, as a condition of probation,  
13 to refrain from maintaining a checking account or making or uttering a  
14 check for three years.
- 15 (2) If the amount of the check or draft is over one hundred dollars  
16 (\$100.00), the punishment shall be by a fine not to exceed two hundred  
17 fifty dollars (\$250.00) or imprisonment for not more than six months,  
18 or both. Provided, however, if such person has been convicted three  
19 times of violating G.S. 14-107, he shall on the fourth and all  
20 subsequent convictions (i) be punished in the discretion of the district  
21 or superior court as for a general misdemeanor and (ii) be ordered, as a  
22 condition of probation, to refrain from maintaining a checking account  
23 or making or uttering a check for three years.
- 24 (3) If the check or draft is drawn upon a nonexistent account, the  
25 punishment shall be by a fine not to exceed one thousand dollars  
26 (\$1,000) or imprisonment for not more than two years, or both.
- 27 (4) If the check or draft is drawn upon an account that has been closed by  
28 the drawer prior to time the check is drawn, the punishment shall be a  
29 fine not to exceed four hundred dollars (\$400.00) or imprisonment for  
30 not more than five months or both.

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

37 Sec. 8. G.S. 14-141 reads as rewritten:

38 **"§ 14-141. Burning or otherwise destroying crops in the field.**

39 Any person who shall willfully burn or destroy any other person's lawfully grown  
40 crop, pasture, or provender shall be punished as follows:

- 41 (1) If the damage is ~~two thousand dollars (\$2,000)~~ one thousand dollars  
42 (\$1,000) or less, the person is guilty of a misdemeanor punishable by a  
43 term of imprisonment not to exceed two years, a fine, or both.

1           (2) If the damage is more than ~~two thousand dollars (\$2,000)~~, one thousand  
2           dollars (\$1,000), the person is guilty of a Class I felony."

3           Sec. 9. G.S. 108A-53(a) reads as rewritten:

4           "(a) Any person, whether provider or recipient or person representing  
5 himself as such, who knowingly obtains or attempts to obtain, or aids or abets any  
6 person to obtain by means of making a willfully false statement or representation or by  
7 impersonation or by failing to disclose material facts or in any manner not authorized by  
8 this Part or the regulations issued pursuant thereto, transfers with intent to defraud any  
9 food stamps or authorization cards to which he is not entitled in the amount of ~~two~~  
10 ~~thousand dollars (\$2,000)~~ one thousand dollars (\$1,000) or less shall be guilty of a  
11 misdemeanor. Whoever knowingly obtains or attempts to obtain, or aids or abets any  
12 person to obtain by means of making a willfully false statement or representation or by  
13 impersonation or by failing to disclose material facts or in any manner not authorized by  
14 this Part or the regulations issued pursuant thereto, transfers with intent to defraud any  
15 food stamps or authorization cards to which he is not entitled in an amount more than  
16 ~~two thousand dollars (\$2,000)~~ one thousand dollars (\$1,000) shall be guilty of a felony  
17 and shall be punished as in cases of larceny."

18           Sec. 10. This act becomes effective December 1, 1993. Prosecutions for  
19 offenses committed before the effective date of this act are not abated or affected by this  
20 act, and the statutes that would be applicable but for this act remain applicable to those  
21 prosecutions.