

SENATE BILL 1048

E1, E2

4lr3253

By: **Senator Stone**

Introduced and read first time: February 17, 2014

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Robbery or Theft of Property – Controlled Dangerous Substances**

3 FOR the purpose of clarifying that the crime of robbery includes robbing or attempting
4 to rob another of certain controlled dangerous substances; clarifying that the
5 crime of theft includes the theft of certain controlled dangerous substances;
6 defining certain terms; and generally relating to controlled dangerous
7 substances.

8 BY repealing and reenacting, without amendments,
9 Article – Criminal Law
10 Section 3–401(a), (d)(1), and (e), 3–402, 6–203(a), 7–101(a) and (i)(1), and
11 7–104(a) through (g)
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2013 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 3–401(d)(2)(xiii) and (xiv) and 7–101(i)(2)(xiii) and (xiv)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2013 Supplement)

19 BY adding to
20 Article – Criminal Law
21 Section 3–401(d)(2)(xv) and 7–101(i)(2)(xv)
22 Annotated Code of Maryland
23 (2012 Replacement Volume and 2013 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – Criminal Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3-401.

2 (a) In this subtitle the following words have the meanings indicated.

3 (d) (1) "Property" means anything of value.

4 (2) "Property" includes:

5 (xiii) a financial instrument; [and]

6 (xiv) information, electronically produced data, and a computer
7 software or program in a form readable by machine or individual; AND

8 (XV) **A DRUG, A SUBSTANCE, OR AN IMMEDIATE PRECURSOR**
9 **LISTED AS A CONTROLLED DANGEROUS SUBSTANCE IN SCHEDULE II THROUGH**
10 **SCHEDULE V OF TITLE 5, SUBTITLE 4 OF THIS ARTICLE.**

11 (e) "Robbery" retains its judicially determined meaning except that:

12 (1) robbery includes obtaining the service of another by force or threat
13 of force; and

14 (2) robbery requires proof of intent to withhold property of another:

15 (i) permanently;

16 (ii) for a period that results in the appropriation of a part of the
17 property's value;

18 (iii) with the purpose to restore it only on payment of a reward or
19 other compensation; or

20 (iv) to dispose of the property or use or deal with the property in
21 a manner that makes it unlikely that the owner will recover it.

22 3-402.

23 (a) A person may not commit or attempt to commit robbery.

24 (b) A person who violates this section is guilty of a felony and on conviction is
25 subject to imprisonment not exceeding 15 years.

26 6-203.

1 (a) A person may not break and enter the storehouse of another with the
2 intent to commit theft, a crime of violence, or arson in the second degree.

3 7-101.

4 (a) In this part the following words have the meanings indicated.

5 (i) (1) "Property" means anything of value.

6 (2) "Property" includes:

7 (xiii) a financial instrument; [and]

8 (xiv) information, electronically produced data, and a computer
9 software or program in a form readable by machine or individual; AND

10 (XV) A DRUG, A SUBSTANCE, OR AN IMMEDIATE PRECURSOR
11 LISTED AS A CONTROLLED DANGEROUS SUBSTANCE IN SCHEDULE II THROUGH
12 SCHEDULE V OF TITLE 5, SUBTITLE 4 OF THIS ARTICLE.

13 7-104.

14 (a) A person may not willfully or knowingly obtain or exert unauthorized
15 control over property, if the person:

16 (1) intends to deprive the owner of the property;

17 (2) willfully or knowingly uses, conceals, or abandons the property in a
18 manner that deprives the owner of the property; or

19 (3) uses, conceals, or abandons the property knowing the use,
20 concealment, or abandonment probably will deprive the owner of the property.

21 (b) A person may not obtain control over property by willfully or knowingly
22 using deception, if the person:

23 (1) intends to deprive the owner of the property;

24 (2) willfully or knowingly uses, conceals, or abandons the property in a
25 manner that deprives the owner of the property; or

26 (3) uses, conceals, or abandons the property knowing the use,
27 concealment, or abandonment probably will deprive the owner of the property.

28 (c) (1) A person may not possess stolen personal property knowing that it
29 has been stolen, or believing that it probably has been stolen, if the person:

1 (i) intends to deprive the owner of the property;

2 (ii) willfully or knowingly uses, conceals, or abandons the
3 property in a manner that deprives the owner of the property; or

4 (iii) uses, conceals, or abandons the property knowing that the
5 use, concealment, or abandonment probably will deprive the owner of the property.

6 (2) In the case of a person in the business of buying or selling goods,
7 the knowledge required under this subsection may be inferred if:

8 (i) the person possesses or exerts control over property stolen
9 from more than one person on separate occasions;

10 (ii) during the year preceding the criminal possession charged,
11 the person has acquired stolen property in a separate transaction; or

12 (iii) being in the business of buying or selling property of the sort
13 possessed, the person acquired it for a consideration that the person knew was far
14 below a reasonable value.

15 (3) In a prosecution for theft by possession of stolen property under
16 this subsection, it is not a defense that:

17 (i) the person who stole the property has not been convicted,
18 apprehended, or identified;

19 (ii) the defendant stole or participated in the stealing of the
20 property;

21 (iii) the property was provided by law enforcement as part of an
22 investigation, if the property was described to the defendant as being obtained
23 through the commission of theft; or

24 (iv) the stealing of the property did not occur in the State.

25 (4) Unless the person who criminally possesses stolen property
26 participated in the stealing, the person who criminally possesses stolen property and a
27 person who has stolen the property are not accomplices in theft for the purpose of any
28 rule of evidence requiring corroboration of the testimony of an accomplice.

29 (d) A person may not obtain control over property knowing that the property
30 was lost, mislaid, or was delivered under a mistake as to the identity of the recipient
31 or nature or amount of the property, if the person:

1 (1) knows or learns the identity of the owner or knows, is aware of, or
2 learns of a reasonable method of identifying the owner;

3 (2) fails to take reasonable measures to restore the property to the
4 owner; and

5 (3) intends to deprive the owner permanently of the use or benefit of
6 the property when the person obtains the property or at a later time.

7 (e) A person may not obtain the services of another that are available only
8 for compensation:

9 (1) by deception; or

10 (2) with knowledge that the services are provided without the consent
11 of the person providing them.

12 (f) Under this section, an offender's intention or knowledge that a promise
13 would not be performed may not be established by or inferred solely from the fact that
14 the promise was not performed.

15 (g) (1) A person convicted of theft of property or services with a value of:

16 (i) at least \$1,000 but less than \$10,000 is guilty of a felony
17 and:

18 1. is subject to imprisonment not exceeding 10 years or a
19 fine not exceeding \$10,000 or both; and

20 2. shall restore the property taken to the owner or pay
21 the owner the value of the property or services;

22 (ii) at least \$10,000 but less than \$100,000 is guilty of a felony
23 and:

24 1. is subject to imprisonment not exceeding 15 years or a
25 fine not exceeding \$15,000 or both; and

26 2. shall restore the property taken to the owner or pay
27 the owner the value of the property or services; or

28 (iii) \$100,000 or more is guilty of a felony and:

29 1. is subject to imprisonment not exceeding 25 years or a
30 fine not exceeding \$25,000 or both; and

1 2. shall restore the property taken to the owner or pay
2 the owner the value of the property or services.

3 (2) Except as provided in paragraphs (3) and (4) of this subsection, a
4 person convicted of theft of property or services with a value of less than \$1,000, is
5 guilty of a misdemeanor and:

6 (i) is subject to imprisonment not exceeding 18 months or a fine
7 not exceeding \$500 or both; and

8 (ii) shall restore the property taken to the owner or pay the
9 owner the value of the property or services.

10 (3) A person convicted of theft of property or services with a value of
11 less than \$100 is guilty of a misdemeanor and:

12 (i) is subject to imprisonment not exceeding 90 days or a fine
13 not exceeding \$500 or both; and

14 (ii) shall restore the property taken to the owner or pay the
15 owner the value of the property or services.

16 (4) Subject to paragraph (5) of this subsection, a person who has two
17 or more prior convictions under this subtitle and who is convicted of theft of property
18 or services with a value of less than \$1,000 under paragraph (2) of this subsection is
19 guilty of a misdemeanor and:

20 (i) is subject to imprisonment not exceeding 5 years or a fine
21 not exceeding \$5,000 or both; and

22 (ii) shall restore the property taken to the owner or pay the
23 owner the value of the property or services.

24 (5) The court may not impose the penalties under paragraph (4) of this
25 subsection unless the State's Attorney serves notice on the defendant or the
26 defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at
27 least 15 days before trial that:

28 (i) the State will seek the penalties under paragraph (4) of this
29 subsection; and

30 (ii) lists the alleged prior convictions.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2014.