

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 698
Senate Judiciary I Committee Substitute Adopted 7/22/93

Short Title: Felony Larceny Amount.

(Public)

Sponsors:

Referred to:

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
AND TO CREATE OFFENSES RELATED TO FAILING TO PROVIDE OR
PROVIDING FALSE INFORMATION BY ITINERANT MERCHANTS ON
THEIR SOURCE OF MERCHANDISE.

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

1 claim of more than ~~four hundred dollars (\$400.00)~~, one thousand dollars (\$1,000), the
2 person is guilty of a Class I felony."

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

4 **"§ 108A-39. Fraudulent misrepresentation.**

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

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

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

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

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

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

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

37 **"§ 157-29.1. Fraudulent misrepresentation.**

38 (a) Any person whether provider or recipient, or person representing himself as
39 such, who willfully and knowingly and with intent to deceive makes a false statement or
40 representation or who willfully and knowingly and with intent to deceive fails to
41 disclose a material fact and as a result of making a false statement or representation or
42 failing to disclose a material fact obtains, for himself or another person, attempts to
43 obtain for himself or another person, or continues to receive housing assistance in the
44 amount or value of not more than ~~four hundred dollars (\$400.00)~~ one thousand dollars

1 (\$1,000) is guilty of a misdemeanor, and upon conviction or plea of guilty shall be fined
2 or imprisoned or both at the discretion of the court.

3 (b) Any person whether provider or recipient, or person representing himself as
4 such, who willfully and knowingly and with intent to deceive makes a false statement or
5 representation or who willfully and knowingly and with intent to deceive fails to
6 disclose a material fact and as a result of making a false statement or representation or
7 failing to disclose a material fact obtains, for himself or another person, or continues to
8 receive housing assistance in the amount or value of more than ~~four hundred dollars~~
9 ~~(\$400.00)~~ one thousand dollars (\$1,000) is guilty of a Class I felony.

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

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

13 **"§ 14-398. Theft or destruction of property of public libraries, museums, etc.**

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

32 Sec. 7. G.S. 14-141 reads as rewritten:

33 **"§ 14-141. Burning or otherwise destroying crops in the field.**

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

36 (1) If the damage is ~~two thousand dollars (\$2,000)~~ one thousand dollars
37 (\$1,000) or less, the person is guilty of a misdemeanor punishable by a
38 term of imprisonment not to exceed two years, a fine, or both.

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

41 Sec. 8. G.S. 108A-53(a) reads as rewritten:

42 "(a) Any person, whether provider or recipient or person representing
43 himself as such, who knowingly obtains or attempts to obtain, or aids or abets any
44 person to obtain by means of making a willfully false statement or representation or by

1 impersonation or by failing to disclose material facts or in any manner not authorized by
2 this Part or the regulations issued pursuant thereto, transfers with intent to defraud any
3 food stamps or authorization cards to which he is not entitled in the amount of ~~two~~
4 ~~thousand dollars (\$2,000)~~ one thousand dollars (\$1,000) or less shall be guilty of a
5 misdemeanor. Whoever 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 an amount more than
10 ~~two thousand dollars (\$2,000)~~ one thousand dollars (\$1,000) shall be guilty of a felony
11 and shall be punished as in cases of larceny."

12 Sec. 9. G.S. 105-53 reads as rewritten:

13 **"§ 105-53. Peddlers, itinerant merchants, and specialty market operators.**

14 (a) Peddler. – Every person engaged in business or employed as a peddler shall
15 obtain a license from the Secretary of Revenue for the privilege of peddling goods and
16 shall pay a tax for the license in the amount specified in this section. A 'peddler' is a
17 person who travels from place to place with an inventory of goods, who sells the goods
18 at retail or offers the goods for sale at retail, and who delivers the identical goods he
19 carries with him. A peddler of only farm products shall pay a tax of twenty-five dollars
20 (\$25.00) regardless of the number of counties in which he peddles goods. A peddler
21 who travels from place to place on foot, selling goods other than or in addition to farm
22 products, shall pay a tax of ten dollars (\$10.00) for each county in which he peddles
23 goods. A peddler who travels from place to place by vehicle, selling goods other than
24 or in addition to farm products, shall pay a tax of twenty-five dollars (\$25.00) for each
25 county in which he peddles goods.

26 (b) Itinerant Merchant. – Every person engaged in business as an itinerant
27 merchant shall obtain a license from the Secretary of Revenue for the privilege of
28 engaging in business and shall pay a tax for the license of one hundred dollars (\$100.00)
29 for each county in which he is engaged in business. An 'itinerant merchant' is a
30 merchant, other than a merchant with an established retail store in the county, who
31 transports an inventory of goods to a building, vacant lot, or other location in a county
32 and who, at that location, displays the goods for sale and sells the goods at retail or
33 offers the goods for sale at retail. An itinerant merchant's license is not required to
34 engage in the business of a specialty market vendor at a location licensed as a specialty
35 market under subsection (c) of this section or at a specialty market that is exempt from
36 the license requirement under subsection (c) because the specialty market operator is the
37 State or a unit of local government. A merchant who sells goods, other than farm
38 products, in a county for less than six consecutive months is considered an itinerant
39 merchant unless he stopped selling goods in that county because of his death or
40 disablement, the insolvency of his business, or the destruction of his inventory by fire or
41 other catastrophe.

42 (c) Specialty Market Operator. – Every person, other than the State or a unit of
43 local government, engaged in business as a specialty market operator shall obtain a
44 license from the Secretary of Revenue for the privilege of engaging in business and

1 shall pay a tax for the license of two hundred dollars (\$200.00) for each county in which
2 he is engaged in business. A 'specialty market operator' is a person, other than the State
3 or a unit of local government, who rents space, at a location other than a permanent
4 retail store, to others for the purpose of selling goods at retail or offering goods for sale
5 at retail.

6 (d) Specialty Market Vendor. – The requirements and penalties set out in
7 subsections (i) through (m) of this section apply to every person engaged in business as
8 a specialty market vendor who is liable for retail sales tax under Article 5 of this
9 Chapter. A 'specialty market vendor' is a merchant, other than a merchant with an
10 established retail store in the county, who transports an inventory of goods to a specialty
11 market licensed under subsection (c) of this section and who, at that location, displays
12 the goods for sale and sells the goods at retail or offers the goods for sale at retail. A
13 'specialty market' is a location, other than a permanent retail store, where space is rented
14 to others for the purpose of selling goods at retail or offering goods for sale at retail.

15 (e) Exemptions. – This section does not apply to the following:

16 (1) A peddler or itinerant merchant:

- 17 a. Who sells farm or nursery products produced by him;
- 18 b. Who sells crafts or goods made by him or his own household
19 personal property;
- 20 c. Who is a nonprofit charitable, educational, religious, scientific,
21 or civic organization;
- 22 d. Who sells printed material, wood for fuel, ice, seafood, meat,
23 poultry, livestock, eggs, dairy products, bread, cakes, or pies; or
- 24 e. Who is an authorized automobile dealer licensed pursuant to
25 Chapter 20 of the General Statutes.

26 (2) A peddler who maintains a fixed permanent location from which he
27 makes at least ninety percent (90%) of his sales, but who sells some
28 goods in the county of his fixed location by peddling.

29 (3) An itinerant merchant:

- 30 a. Who locates at a farmer's market;
- 31 b. Who is part of the State Fair or an agriculture fair which is
32 licensed by the Commissioner of Agriculture pursuant to G.S.
33 106-520.3; or
- 34 c. Who sells goods at an auction conducted by an auctioneer
35 licensed pursuant to Chapter 85B of the General Statutes.

36 (4) A peddler who complies with the requirements of G.S. 25A-38
37 through G.S. 25A-42, or who complies with the requirements of G.S.
38 14-401.13.

39 (f) Person Defined. – As used in this section, 'person' has the same meaning as in
40 G.S. 105-164.3(11).

41 (g) County Exemption. – The board of county commissioners of any county in
42 this State, upon proper application, may exempt from the annual license tax levied upon
43 peddlers and itinerant merchants in this section disabled veterans of World War I,
44 World War II, Korean Conflict, and Vietnam Era, who have been bona fide residents of

1 this State for 12 or more months continuously, and widows with dependent children;
2 and when so exempted, the board of county commissioners shall furnish such person or
3 persons with a certificate of exemption, and such certificate shall entitle the holder
4 thereof to sell within the limits of the county without payment of any license tax to the
5 State.

6 (h) Repealed by Session Laws 1989, c. 435, s. 1.

7 (i) ~~Display and Possession of Licenses and Identification.~~ Licenses; Identification
8 of Seller and Source of Merchandise. – An itinerant merchant shall keep both the
9 license required by this section and the retail sales tax license conspicuously and
10 prominently displayed, so as to be visible for inspection by patrons of the itinerant
11 merchant at the places or locations at which the goods are to be sold or offered for sale.
12 A peddler shall have the license required by this section and the retail sales tax license
13 with him at all times he offers goods for sale and must produce them upon the request of
14 any customer, State or local revenue agent, or law enforcement agent. A specialty
15 market vendor shall keep the retail sales tax license conspicuously and prominently
16 displayed, so as to be visible for inspection by patrons of the specialty market vendor at
17 the places or locations at which the goods are to be sold or offered for sale. A specialty
18 market operator shall have the license required by this section available for inspection
19 during all times that the specialty market is open and must produce it upon the request
20 of any customer, State or local revenue agent, or law enforcement agent.

21 Upon the request of any customer, State or local revenue agent, or law enforcement
22 agent, a peddler, itinerant merchant, specialty market operator, or specialty market
23 vendor shall provide its name and permanent address. If the peddler, itinerant merchant,
24 specialty market operator, or specialty market vendor is not a corporation, he shall, upon
25 the request of any customer, State or local revenue agent, or law enforcement agent,
26 provide a valid driver's license, a special identification card issued under G.S. 20-37.7,
27 military identification, or a passport bearing a physical description of the person named
28 reasonably describing the peddler, itinerant merchant, specialty market operator, or
29 specialty market vendor. If the peddler, itinerant merchant, specialty market operator,
30 or specialty market vendor is a corporation, it shall, upon the request of any customer,
31 State or local revenue agent, or law enforcement agent, give the name and registered
32 agent of the corporation and the address of the registered office of the corporation, as
33 filed with the North Carolina Secretary of State.

34 Upon the request of a law enforcement agent, a peddler, an itinerant merchant, or a
35 specialty market vendor shall provide evidence of the source of merchandise offered for
36 sale by the peddler or merchant. The evidence may be a receipt or an invoice from the
37 person who sold the merchandise to the peddler or itinerant merchant or other
38 documentation that establishes the source of the merchandise. If a peddler or an
39 itinerant merchant does not provide evidence of the source of merchandise when
40 requested to do so by a law enforcement agent, the agent may take the merchandise into
41 custody until its source is established.

42 (j) Permission of Property Owner. – An itinerant merchant or a peddler who
43 travels from place to place by vehicle, in addition to other requirements of this section,
44 shall obtain a written statement signed by the owner or lessee of any property upon

1 which the itinerant merchant or peddler offers goods for sale giving the owner's or
2 lessee's permission to offer goods for sale upon the property of the owner or lessee.
3 Such statement shall clearly state the name of the owner or lessee, the location of the
4 premises for which the permission is granted, and the dates during which the permission
5 is valid. Further, such statement shall be conspicuously and prominently displayed, so
6 as to be visible for inspection by patrons of the itinerant merchant or peddler, at the
7 places or locations at which the goods are to be sold or offered for sale.

8 (k) Specialty Market Registration List. – A specialty market operator shall
9 maintain a daily registration list of all specialty market vendors selling or offering goods
10 for sale at the specialty market. This registration list shall clearly and legibly show each
11 specialty market vendor's name, permanent address, and retail sales and use tax
12 registration number. The specialty market operator shall require each specialty market
13 vendor to exhibit a valid retail sales tax license for visual inspection by the specialty
14 market operator at the time of registration, and shall require each specialty market
15 vendor to keep the retail sales tax license conspicuously and prominently displayed, so
16 as to be visible for inspection by patrons of the specialty market vendor at the places or
17 locations at which the goods are offered for sale. Each daily registration list maintained
18 pursuant to this subsection shall be retained by the specialty market operator for no less
19 than two years and shall at any time be made available upon request to any law
20 enforcement officer.

21 (l) ~~Penalty-Misdemeanor Violations.~~ – It shall be a misdemeanor, punishable by
22 imprisonment of up to 30 days, a fine of up to two hundred dollars (\$200.00), or both,
23 for a person ~~to~~ to do any of the following:

- 24 (1) Fail to obtain a license as required by this section; section.
- 25 (2) Knowingly give false information in the application process for a
26 license or when registering pursuant to subsection ~~(k);~~ (k).
- 27 (3) If the person is an itinerant merchant, fail to display the license as
28 required by subsection ~~(i) or~~ (i); if the person is a peddler or specialty
29 market operator, fail to produce the license as required by subsection
30 ~~(i) or~~ (i); or, if the person is required to do so, fail to comply with
31 subsection (j). Whenever satisfactory evidence shall be presented in
32 any court of the fact that a license was required by this section and
33 such license was not displayed or produced as required by subsection
34 (i), or that permission was required by subsection (j) of this section and
35 was not displayed, the peddler, itinerant merchant, or specialty market
36 operator shall be found not guilty of that violation provided he
37 produces in court a valid license or valid permission which had been
38 issued prior to the time he was charged with such ~~violation;~~ or
39 violation.
- 40 (4) Fail to provide name, address, or identification upon request as
41 required by subsection (i) or provide false information in response to
42 such a request.

1 (5) Fail to provide evidence of the source of merchandise offered for sale
2 when requested by a law enforcement agent under subsection (i) or to
3 provide false information in response to the request.

4 (11) ~~Penalties.~~ Misdemeanor Violations. – It shall be a misdemeanor,
5 punishable by imprisonment of up to 30 days, a fine of up to one thousand dollars
6 (\$1,000), or both, for a specialty market operator to fail to comply with subsection (k) or
7 for a specialty market vendor to fail to display the retail sales tax license as required by
8 subsection (i). For the purposes of this section, the requirement that a retail sales tax
9 license be displayed is satisfied if the vendor displays either (i) a copy of the license or
10 (ii) evidence that the license has been applied for and the applicable license fee has been
11 paid within 30 days before the date the license was required to be displayed. Whenever
12 satisfactory evidence shall be presented in any court of the fact that display of a retail
13 sales tax license was required by this section and such license was not displayed, the
14 specialty market operator or vendor shall not be found guilty of that violation provided
15 he produces in court a valid license which had been issued prior to the time he was
16 charged with the violation.

17 (m) Local License. – Counties and cities may levy a license tax on a business
18 taxed under this section in an amount that does not exceed the State tax. Further, this
19 section does not affect the authority of a county or city to impose additional
20 requirements on peddlers, itinerant merchants, specialty market vendors, or specialty
21 market operators by an ordinance adopted under G.S. 153A-125 or G.S. 160A-178."

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