

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE DRH50214-RK-4A* (3/2)

Short Title: Construction Site Theft/Aggravate Penalty. (Public)

Sponsors: Representatives Goforth and Harrell (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE LARCENY FROM A CONSTRUCTION SITE A FELONY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-72 reads as rewritten:

"§ 14-72. Larceny of property; receiving stolen goods or possessing stolen goods.

~~(a) Larceny of goods of the value of more than one thousand dollars (\$1,000) is a Class H felony. The receiving or possessing of stolen goods of the value of more than one thousand dollars (\$1,000) while knowing or having reasonable grounds to believe that the goods are stolen is a Class H felony. Larceny as provided in subsection (b) of this section is a Class H felony. Receiving or possession of stolen goods as provided in subsection (c) of this section is a Class H felony. Except as provided in subsections (b) and (c) of this section, larceny of property, or the receiving or possession of stolen goods knowing or having reasonable grounds to believe them to be stolen, where the value of the property or goods is not more than one thousand dollars (\$1,000), is a Class 1 misdemeanor. In all cases of doubt, the jury shall, in the verdict, fix the value of the property stolen.~~

(a) The following offenses are Class H felonies:

(1) Larceny of goods of the value of more than one thousand dollars (\$1,000).

(2) The receiving or possessing of stolen goods of the value of more than one thousand dollars (\$1,000), while knowing or having reasonable grounds to believe that the goods are stolen.

(a1) If the value of the goods described in (a)(1) or (a)(2) is not more than one thousand dollars (\$1,000), then the offense is a Class 1 misdemeanor.

(a2) In all cases of doubt, the jury shall fix the value of the stolen property in the verdict.

1 (b) ~~Larceny~~ ~~The crime of larceny is a~~ Class H felony, without regard to the value
2 of the property in question, if the larceny is:

3 (1) From the person; or

4 (2) Committed pursuant to a violation of G.S. 14-51, 14-53, 14-54 or
5 14-57; or

6 (3) Of any explosive or incendiary device or substance. As used in this
7 section, the phrase "explosive or incendiary device or substance" shall
8 include any explosive or incendiary grenade or bomb; any dynamite,
9 blasting powder, nitroglycerin, TNT, or other high explosive; or any
10 device, ingredient for such device, or type or quantity of substance
11 primarily useful for large-scale destruction of property by explosive or
12 incendiary action or lethal injury to persons by explosive or incendiary
13 action. This definition shall not include fireworks; or any form, type,
14 or quantity of gasoline, butane gas, natural gas, or any other substance
15 having explosive or incendiary properties but serving a legitimate
16 nondestructive or nonlethal use in the form, type, or quantity stolen.

17 (4) Of any firearm. As used in this section, the term "firearm" shall
18 include any instrument used in the propulsion of a shot, shell or bullet
19 by the action of gunpowder or any other explosive substance within it.
20 A "firearm," which at the time of theft is not capable of being fired,
21 shall be included within this definition if it can be made to work. This
22 definition shall not include air rifles or air pistols.

23 (5) Of any record or paper in the custody of the North Carolina State
24 Archives as defined by G.S. 121-2(7) and 121-2(8).

25 (6) From a permitted construction site. For the purposes of this
26 subdivision only:

27 a. Larceny of goods with a value of less than three hundred dollars
28 (\$300.00) shall be a Class 1 misdemeanor.

29 b. A 'permitted construction site' is a site where a permit, license,
30 or other authorization has been issued by a State or local
31 governmental entity for the placement of new construction or
32 improvements to real property.

33 ~~(e) The crime of possessing stolen goods knowing or having reasonable grounds~~
34 ~~to believe them to be stolen in the circumstances described in subsection (b) is a felony~~
35 ~~or the crime of receiving stolen goods knowing or having reasonable grounds to believe~~
36 ~~them to be stolen in the circumstances described in subsection (b) is a felony, without~~
37 ~~regard to the value of the property in question.~~

38 (c) The following offenses are Class H felonies, without regard to the value of
39 the goods:

40 (1) Possessing stolen goods with actual knowledge, or having reasonable
41 grounds to believe, that the goods were stolen in one of the
42 circumstances set forth in subsection (b) of this section.

1 (2) Receiving stolen goods with actual knowledge, or having reasonable
2 grounds to believe, that the goods were stolen in one of the
3 circumstances set forth in subsection (b) of this section.

4 (d) Where the larceny or receiving or possession of stolen goods as described in
5 subsection (a) of this section involves the merchandise of any store, a merchant, a
6 merchant's agent, a merchant's employee, or a peace officer who detains or causes the
7 arrest of any person shall not be held civilly liable for detention, malicious prosecution,
8 false imprisonment, or false arrest of the person detained or arrested, when such
9 detention is upon the premises of the store or in a reasonable proximity thereto, is in a
10 reasonable manner for a reasonable length of time, and, if in detaining or in causing the
11 arrest of such person, the merchant, the merchant's agent, the merchant's employee, or
12 the peace officer had, at the time of the detention or arrest, probable cause to believe
13 that the person committed an offense under subsection (a) of this section. If the person
14 being detained by the merchant, the merchant's agent, or the merchant's employee, is a
15 minor under the age of 18 years, the merchant, the merchant's agent, or the merchant's
16 employee, shall call or notify, or make a reasonable effort to call or notify the parent or
17 guardian of the minor, during the period of detention. A merchant, a merchant's agent,
18 or a merchant's employee, who makes a reasonable effort to call or notify the parent or
19 guardian of the minor shall not be held civilly liable for failing to notify the parent or
20 guardian of the minor."

21 **SECTION 2.** This act becomes effective December 1, 2005, and applies to
22 offenses committed on or after that date. Prosecutions for offenses committed before
23 the effective date of this act are not abated or affected by this act, and the statutes that
24 would be applicable but for this act remain applicable to those prosecutions.