

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 57*

Short Title: Habitual Misdemeanor Larceny. (Public)

Sponsors: Senators D. Berger; Clary, Daniel, Dannelly, and Hise.

Referred to: Judiciary II.

February 10, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE STATUS OFFENSE OF HABITUAL MISDEMEANOR
3 LARCENY.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 14 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 2D.

8 "Habitual Misdemeanor Larceny.

9 "**§ 14-7.25. Definitions.**

10 The following definitions apply in this Article:

11 (1) 'Convicted' means the person has been adjudged guilty of or has entered a
12 plea of guilty or no contest to the misdemeanor larceny charge, and
13 judgment has been entered thereon when the action occurred.

14 (2) 'Misdemeanor larceny' includes the following offenses:

15 a. Misdemeanor larceny pursuant to G.S. 14-72(a).

16 b. Any repealed or superseded offense substantially equivalent to
17 misdemeanor larceny under G.S. 14-72(a) committed within the last
18 10 years.

19 c. Any offense committed in another jurisdiction substantially similar to
20 misdemeanor larceny under G.S. 14-72(a).

21 (3) 'Status offender' means a person who is a habitual misdemeanor larceny
22 status offender as described in G.S. 14-7.26.

23 "**§ 14-7.26. Habitual misdemeanor larceny status offender.**

24 (a) Any person who is 18 years of age or older and who has been convicted of or pled
25 guilty to three or more prior misdemeanor larceny offenses in any federal court or state court in
26 the United States or combination thereof is guilty of the status offense of habitual misdemeanor
27 larceny and is declared to be a habitual misdemeanor larceny status offender. The commission
28 of a second or subsequent offense of misdemeanor larceny shall not fall within the purview of
29 this Article unless it is committed after the conviction of or plea of guilty to the first or prior
30 offense of misdemeanor larceny.

31 (b) For purposes of this Article, if a person is convicted of more than one offense of
32 misdemeanor larceny in a single session of district court, or in a single week of superior court
33 or of a court in another jurisdiction, only one of the convictions may be used to establish the
34 offense of habitual misdemeanor larceny.

35 "**§ 14-7.27. Punishment.**



1 When any person is charged with misdemeanor larceny and is also charged with being a
2 status offender as defined in G.S. 14-7.26, the person must, upon conviction, be sentenced and
3 punished as a status offender as provided by this Article.

4 **"§ 14-7.28. Charge of habitual misdemeanor larceny status offender.**

5 (a) To sustain a conviction of a person as a status offender, the person must be charged
6 separately for the offense of misdemeanor larceny and for the habitual misdemeanor larceny
7 status offense. The indictment charging the defendant as a status offender shall be separate
8 from the indictment charging the person with the misdemeanor larceny offense.

9 (b) An indictment that charges a person with being a status offender must set forth the
10 date that the prior misdemeanor larceny offenses were committed, the name of the state or other
11 sovereign against whom the misdemeanor larceny offenses were committed, the dates that the
12 pleas of guilty were entered into or convictions returned in the misdemeanor larceny offenses,
13 and the identity of the court in which the pleas or convictions took place. No defendant charged
14 with being a status offender in a bill of indictment shall be required to go to trial on the charge
15 within 20 days of the finding of a true bill by the grand jury; provided, the defendant may
16 waive this 20-day period.

17 **"§ 14-7.29. Evidence of prior convictions of misdemeanor larceny offenses.**

18 In all cases in which a person is charged under the provisions of this Article with being a
19 status offender, the record of prior convictions of misdemeanor larceny offenses shall be
20 admissible in evidence, but only for the purpose of proving that the person has been convicted
21 of former misdemeanor larceny offenses. A prior conviction may be proved by stipulation of
22 the parties or by the original or a certified copy of the court record of the prior conviction. The
23 original or certified copy of the court record, bearing the same name as that by which the
24 defendant is charged, shall be prima facie evidence that the defendant named therein is the
25 same as the defendant before the court, and shall be prima facie evidence of the facts set out
26 therein.

27 **"§ 14-7.30. Verdict and judgment.**

28 (a) When an indictment charges a person with an offense of misdemeanor larceny as
29 provided by this Article and an indictment also charges that the person is a status offender, the
30 defendant shall be tried for the principal misdemeanor larceny offense as provided by law. The
31 indictment that the person is a status offender shall not be revealed to the jury unless the jury
32 shall find that the defendant is guilty of the principal misdemeanor larceny offense with which
33 the defendant is charged.

34 (b) If the jury finds the defendant guilty of a misdemeanor larceny offense, the bill of
35 indictment charging the defendant as a status offender may be presented to the same jury.
36 Except that the same jury may be used, the proceedings shall be as if the issue of status
37 offender were a principal charge.

38 (c) If the jury finds that the defendant is a status offender, the trial judge shall enter
39 judgment according to the provisions of this Article. If the jury finds that the defendant is not a
40 status offender, the trial judge shall pronounce judgment on the principal misdemeanor larceny
41 offense as provided by law.

42 **"§ 14-7.31. Sentencing of status offenders.**

43 (a) When a status offender as defined in this Article commits a misdemeanor larceny
44 offense under the laws of the State of North Carolina, the status offender must, upon conviction
45 or plea of guilty under indictment as provided in this Article, be sentenced as a Class H felon.

46 (b) In determining the prior record level, convictions used to establish a person's status
47 as a status offender shall not be used. Sentences imposed under this Article shall run
48 consecutively with and shall commence at the expiration of any sentence being served by the
49 person sentenced under this section.

50 (c) A conviction as a status offender under this Article shall not constitute commission
51 of a felony for the purpose of G.S. 14-7.6."

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SECTION 2. This act becomes effective December 1, 2011.