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SENATE BILL NO. 816

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 23, 2017)

(Patrons Prior to Substitute—Senators Surovell and Petersen [SB923])

A BILL to amend and reenact §§ 18.2-23, 18.2-95, 18.2-96, 18.2-103, 18.2-108.01, 18.2-181, 18.2-181.1, 18.2-182, 19.2-289, and 19.2-290 of the Code of Virginia, relating to grand larceny and certain property crimes; threshold.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-23, 18.2-95, 18.2-96, 18.2-103, 18.2-108.01, 18.2-181, 18.2-181.1, 18.2-182, 19.2-289, and 19.2-290 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-23. Conspiring to trespass or commit larceny.

A. If any person shall conspire, confederate or combine with another or others in the Commonwealth to go upon or remain upon the lands, buildings or premises of another, or any part, portion or area thereof, having knowledge that any of them have been forbidden, either orally or in writing, to do so by the owner, lessee, custodian or other person lawfully in charge thereof, or having knowledge that any of them have been forbidden to do so by a sign or signs posted on such lands, buildings, premises or part, portion or area thereof at a place or places where it or they may reasonably be seen, he shall be deemed guilty of a Class 3 misdemeanor.

B. If any person shall conspire, confederate or combine with another or others in the Commonwealth to commit larceny or counsel, assist, aid or abet another in the performance of a larceny, where the aggregate value of the goods or merchandise involved is ~~more than \$200~~ *\$500 or more*, he is guilty of a felony punishable by confinement in a state correctional facility for not less than one year nor more than 20 years. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise. A violation of this subsection constitutes a separate and distinct felony.

C. Jurisdiction for the trial of any person charged under this section shall be in the county or city wherein any part of such conspiracy is planned, or in the county or city wherein any act is done toward the consummation of such plan or conspiracy.

§ 18.2-95. Grand larceny defined; how punished.

Any person who (i) commits larceny from the person of another of money or other thing of value of \$5 or more, (ii) commits simple larceny not from the person of another of goods and chattels of the value of ~~\$200~~ *\$500* or more, or (iii) commits simple larceny not from the person of another of any firearm, regardless of the firearm's value, shall be guilty of grand larceny, punishable by imprisonment in a state correctional facility for not less than one nor more than ~~twenty~~ *20* years or, in the discretion of the jury or court trying the case without a jury, be confined in jail for a period not exceeding ~~twelve~~ *12* months or fined not more than \$2,500, either or both.

§ 18.2-96. Petit larceny defined; how punished.

Any person who:

1. Commits larceny from the person of another of money or other thing of value of less than \$5, or
2. Commits simple larceny not from the person of another of goods and chattels of the value of less than ~~\$200~~ *\$500*, except as provided in ~~subdivision~~ *clause* (iii) of § 18.2-95, shall be deemed guilty of petit larceny, which shall be punishable as a Class 1 misdemeanor.

§ 18.2-103. Concealing or taking possession of merchandise; altering price tags; transferring goods from one container to another; counseling, etc., another in performance of such acts.

Whoever, without authority, with the intention of converting goods or merchandise to his own or another's use without having paid the full purchase price thereof, or of defrauding the owner of the value of the goods or merchandise, (i) willfully conceals or takes possession of the goods or merchandise of any store or other mercantile establishment, or (ii) alters the price tag or other price marking on such goods or merchandise, or transfers the goods from one container to another, or (iii) counsels, assists, aids or abets another in the performance of any of the above acts, when the value of the goods or merchandise involved in the offense is less than ~~\$200~~ *\$500*, shall be guilty of petit larceny and, when the value of the goods or merchandise involved in the offense is ~~\$200~~ *\$500* or more, shall be guilty of grand larceny. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise.

§ 18.2-108.01. Larceny with intent to sell or distribute; sale of stolen property; penalty.

A. Any person who commits larceny of property with a value of ~~\$200~~ *\$500* or more with the intent

to sell or distribute such property is guilty of a felony punishable by confinement in a state correctional facility for not less than two years nor more than 20 years. The larceny of more than one item of the same product is prima facie evidence of intent to sell or intent to distribute for sale.

B. Any person who sells, attempts to sell or possesses with intent to sell or distribute any stolen property with an aggregate value of ~~\$200~~ \$500 or more where he knew or should have known that the property was stolen is guilty of a Class 5 felony.

C. A violation of this section constitutes a separate and distinct offense.

§ 18.2-181. Issuing bad checks, etc., larceny.

Any person who, with intent to defraud, shall make or draw or utter or deliver any check, draft, or order for the payment of money, upon any bank, banking institution, trust company, or other depository, knowing, at the time of such making, drawing, uttering or delivering, that the maker or drawer has not sufficient funds in, or credit with, such bank, banking institution, trust company, or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of larceny; and, if this check, draft, or order has a represented value of ~~\$200~~ \$500 or more, such person shall be guilty of a Class 6 felony. In cases in which such value is less than ~~\$200~~ \$500, the person shall be guilty of a Class 1 misdemeanor.

The word "credit" as used herein, shall be construed to mean any arrangement or understanding with the bank, trust company, or other depository for the payment of such check, draft or order.

Any person making, drawing, uttering or delivering any such check, draft or order in payment as a present consideration for goods or services for the purposes set out in this section shall be guilty as provided herein.

§ 18.2-181.1. Issuance of bad checks.

It shall be a Class 6 felony for any person, within a period of ~~ninety~~ 90 days, to issue two or more checks, drafts or orders for the payment of money in violation of § 18.2-181, which have an aggregate represented value of ~~\$200~~ \$500 or more and which (i) are drawn upon the same account of any bank, banking institution, trust company or other depository and (ii) are made payable to the same person, firm or corporation.

§ 18.2-182. Issuing bad checks on behalf of business firm or corporation in payment of wages; penalty.

Any person who shall make, draw, or utter, or deliver any check, draft, or order for the payment of money, upon any bank, banking institution, trust company or other depository on behalf of any business firm or corporation, for the purpose of paying wages to any employee of such firm or corporation, or for the purpose of paying for any labor performed by any person for such firm or corporation, knowing, at the time of such making, drawing, uttering or delivering, that the account upon which such check, draft or order is drawn has not sufficient funds, or credit with, such bank, banking institution, trust company or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of a Class 1 misdemeanor; except that if this check, draft, or order has a represented value of ~~\$200~~ \$500 or more, such person shall be guilty of a Class 6 felony.

The word "credit," as used herein, shall be construed to mean any arrangement or understanding with the bank, banking institution, trust company, or other depository for the payment of such check, draft or order.

In addition to the criminal penalty set forth herein, such person shall be personally liable in any civil action brought upon such check, draft or order.

§ 19.2-289. Conviction of petit larceny.

In a prosecution for grand larceny, if it be found that the thing stolen is of less value than ~~\$200~~ \$500, the jury may find the accused guilty of petit larceny.

§ 19.2-290. Conviction of petit larceny though thing stolen worth \$500 or more.

In a prosecution for petit larceny, though the thing stolen be of the value of ~~\$200~~ \$500 or more, the jury may find the accused guilty; and upon a conviction under this section or § 19.2-289, the accused shall be sentenced for petit larceny.