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HOUSE BILL NO. 2143

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 7, 1999)

(Patron Prior to Substitute—Delegate Moran)

A *BILL to amend and reenact §§ 18.2-95, 18.2-96, 18.2-96.1, 18.2-103, 18.2-110, 18.2-152.3, 18.2-181, 18.2-181.1, 18.2-186, 18.2-195, 18.2-195.2, 19.2-289, and 19.2-290 of the Code of Virginia, relating to grand larceny.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-95, 18.2-96, 18.2-96.1, 18.2-103, 18.2-110, 18.2-152.3, 18.2-181, 18.2-181.1, 18.2-186, 18.2-195, 18.2-195.2, 19.2-289, and 19.2-290 of the Code of Virginia are amended and reenacted as follows:

§ 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~~ *five dollars* or more, (ii) commits simple larceny not from the person of another of goods and chattels of the value of ~~\$200~~ *\$300* 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 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 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~~ *five dollars*, or

2. Commits simple larceny not from the person of another of goods and chattels of the value of less than ~~\$200~~ *\$300*, except as provided in subdivision (iii) of § 18.2-95, shall be deemed guilty of petit larceny, which shall be punishable as a Class 1 misdemeanor.

§ 18.2-96.1. Identification of certain personalty.

A. The owner of personal property may permanently mark such property, including any part thereof, for the purpose of identification with the social security number of the owner, preceded by the letters "VA."

B. [Repealed.]

C. It shall be unlawful for any person to remove, alter, deface, destroy, conceal, or otherwise obscure the manufacturer's serial number or marks, including personalty marked with a social security number preceded by the letters "VA," from such personal property or any part thereof, without the consent of the owner, with intent to render it or other property unidentifiable.

D. It shall be unlawful for any person to possess such personal property or any part thereof, without the consent of the owner, knowing that the manufacturer's serial number or any other distinguishing identification number or mark, including personalty marked with a social security number preceded by the letters "VA," has been removed, altered, defaced, destroyed, concealed, or otherwise obscured with the intent to violate the provisions of this section.

E. A person in possession of such property which is otherwise in violation of this section may apply in writing to the Bureau of Criminal Investigation, Virginia State Police, for assignment of a number for the personal property providing he can show that he is the lawful owner of the property. If a number is issued in conformity with the provisions of this section, then the person to whom it was issued and any person to whom the property is lawfully disposed of shall not be in violation of this section. This subsection shall apply only when the application has been filed by a person prior to arrest or authorization of a warrant of arrest for that person by a court.

F. Any person convicted of an offense under this section, when the value of the personalty is less than ~~\$200~~ *\$300*, shall be guilty of a Class 1 misdemeanor and, when the value of the personalty is ~~\$200~~ *\$300* or more, shall be guilty of a Class 5 felony.

§ 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

60 the goods or merchandise involved in the offense is less than ~~\$200~~ \$300, shall be guilty of petit larceny
61 and, when the value of the goods or merchandise involved in the offense is ~~\$200~~ \$300 or more, shall be
62 guilty of grand larceny. The willful concealment of goods or merchandise of any store or other
63 mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent
64 to convert and defraud the owner thereof out of the value of the goods or merchandise.

65 § 18.2-110. Forfeiture of motor vehicles used in commission of certain crimes.

66 Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and
67 during the commission of, or in an attempt to commit, a second or subsequent offense of §§ 18.2-346,
68 18.2-347, 18.2-348, 18.2-349, 18.2-355, 18.2-356 or § 18.2-357 or of a similar ordinance of any county,
69 city or town or knowingly used for the transportation of any stolen goods, chattels or other property,
70 when the value of such stolen goods, chattels or other property is ~~\$200~~ \$300 or more, or any stolen
71 property obtained as a result of a robbery, without regard to the value of the property, shall be forfeited
72 to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator
73 of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the
74 offense occurred. The officer shall take a receipt therefor.

75 Forfeiture of such vehicle shall be enforced as is provided in §§ 4.1-339 through 4.1-348 as to
76 vehicles used for the transportation of illegally acquired alcoholic beverages, and the provisions of
77 §§ 4.1-339 through 4.1-348 shall apply, mutatis mutandis, to proceedings for the enforcement of such
78 forfeiture except that venue for the forfeiture proceeding shall be in the county or city in which the
79 offense occurred.

80 The agency seizing the motor vehicle or other conveyance shall, for such period of time as the court
81 prescribes, be permitted the use and operation of the motor vehicle or other conveyance, after court
82 forfeiture, for the investigation of crimes against the Commonwealth by the agency seizing the motor
83 vehicle or other conveyance. The agency using or operating each motor vehicle shall have insurance on
84 each vehicle used or operated for liability and property damage.

85 § 18.2-152.3. Computer fraud.

86 Any person who uses a computer or computer network without authority and with the intent to:

87 1. Obtain property or services by false pretenses;

88 2. Embezzle or commit larceny; or

89 3. Convert the property of another shall be guilty of the crime of computer fraud. If the value of the
90 property or services obtained is ~~\$200~~ \$300 or more, the crime of computer fraud shall be punishable as
91 a Class 5 felony. Where the value of the property or services obtained is less than ~~\$200~~ \$300, the crime
92 of computer fraud shall be punishable as a Class 1 misdemeanor.

93 § 18.2-181. Issuing bad checks, etc., larceny.

94 Any person who, with intent to defraud, shall make or draw or utter or deliver any check, draft, or
95 order for the payment of money, upon any bank, banking institution, trust company, or other depository,
96 knowing, at the time of such making, drawing, uttering or delivering, that the maker or drawer has not
97 sufficient funds in, or credit with, such bank, banking institution, trust company, or other depository, for
98 the payment of such check, draft or order, although no express representation is made in reference
99 thereto, shall be guilty of larceny; and, if this check, draft, or order has a represented value of ~~\$200~~
100 \$300 or more, such person shall be guilty of a Class 6 felony. In cases in which such value is less than
101 ~~\$200~~ \$300, the person shall be guilty of a Class 1 misdemeanor.

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

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

107 § 18.2-181.1. Issuance of bad checks.

108 It shall be a Class 6 felony for any person, within a period of ninety days, to issue two or more
109 checks, drafts or orders for the payment of money in violation of § 18.2-181, which have an aggregate
110 represented value of ~~\$200~~ \$300 or more and which (i) are drawn upon the same account of any bank,
111 banking institution, trust company or other depository and (ii) are made payable to the same person,
112 firm or corporation.

113 § 18.2-186. False statements to obtain property or credit.

114 A. A person shall be guilty of a Class 2 misdemeanor if he makes, causes to be made or conspires to
115 make directly, indirectly or through an agency, any materially false statement in writing, knowing it to
116 be false and intending that it be relied upon, concerning the financial condition or means or ability to
117 pay of himself, or of any other person for whom he is acting, or any firm or corporation in which he is
118 interested or for which he is acting, for the purpose of procuring, for his own benefit or for the benefit
119 of such person, firm or corporation, the delivery of personal property, the payment of cash, the making
120 of a loan or credit, the extension of a credit, the discount of an account receivable, or the making,
121 acceptance, discount, sale or endorsement of a bill of exchange or promissory note.

B. Any person who knows that a false statement has been made in writing concerning the financial condition or ability to pay of himself or of any person for whom he is acting, or any firm or corporation in which he is interested or for which he is acting and who, with intent to defraud, procures, upon the faith thereof, for his own benefit, or for the benefit of the person, firm or corporation, any such delivery, payment, loan, credit, extension, discount making, acceptance, sale or endorsement, and fails to pay for such loan, credit or benefit so procured, shall, if the value of the thing or the amount of the loan, credit or benefit obtained is \$200 \$300 or more, be guilty of grand larceny or, if the value is less than \$200 \$300, be guilty of a Class 1 misdemeanor.

§ 18.2-195. Credit card fraud; conspiracy; penalties.

(1) A person is guilty of credit card fraud when, with intent to defraud any person, he:

(a) Uses for the purpose of obtaining money, goods, services or anything else of value a credit card or credit card number obtained or retained in violation of § 18.2-192 or a credit card or credit card number which he knows is expired or revoked;

(b) Obtains money, goods, services or anything else of value by representing (i) without the consent of the cardholder that he is the holder of a specified card or credit card number or (ii) that he is the holder of a card or credit card number and such card or credit card number has not in fact been issued;

(c) Obtains control over a credit card or credit card number as security for debt; or

(d) Obtains money from an issuer by use of an unmanned device of the issuer or through a person other than the issuer when he knows that such advance will exceed his available credit with the issuer and any available balances held by the issuer.

(2) A person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card or credit card number by the cardholder, or any agent or employee of such person, is guilty of a credit card fraud when, with intent to defraud the issuer or the cardholder, he:

(a) Furnishes money, goods, services or anything else of value upon presentation of a credit card or credit card number obtained or retained in violation of § 18.2-192, or a credit card or credit card number which he knows is expired or revoked;

(b) Fails to furnish money, goods, services or anything else of value which he represents or causes to be represented in writing or by any other means to the issuer that he has furnished; or

(c) Remits to an issuer or acquirer a record of a credit card or credit card number transaction which is in excess of the monetary amount authorized by the cardholder.

(3) Conviction of credit card fraud is punishable as a Class 1 misdemeanor if the value of all money, goods, services and other things of value furnished in violation of this section, or if the difference between the value of all money, goods, services and anything else of value actually furnished and the value represented to the issuer to have been furnished in violation of this section, does not exceed \$200 \$300 in any six-month period; conviction of credit card fraud is punishable as a Class 6 felony if such value exceeds \$200 \$300 in any six-month period.

(4) Any person who conspires, confederates or combines with another, (i) either within or without the Commonwealth to commit credit card fraud within the Commonwealth or (ii) within the Commonwealth to commit credit card fraud within or without the Commonwealth, is guilty of a Class 6 felony.

§ 18.2-195.2. Fraudulent application for credit card; penalties.

A. A person shall be guilty of a Class 2 misdemeanor if he makes, causes to be made or conspires to make, directly, indirectly or through an agency, any materially false statement in writing concerning the financial condition or means or ability to pay of himself or of any other person for whom he is acting or any firm or corporation in which he is interested or for which he is acting, knowing the statement to be false and intending that it be relied upon for the purpose of procuring a credit card. However, if the statement is made in response to a written solicitation from the issuer or an agent of the issuer to apply for a credit card, he shall be guilty of a Class 4 misdemeanor.

B. A person who knows that a false statement has been made in writing concerning the financial condition or ability to pay of himself or of any person for whom he is acting or any firm or corporation in which he is interested or for which he is acting and who (i) with intent to defraud, procures a credit card, upon the faith thereof, for his own benefit, or for the benefit of the person, firm or corporation, and (ii) fails to pay for money, property, services or any thing of value obtained by use of the credit card, shall be guilty of grand larceny if the value so obtained is \$200 \$300 or more or a Class 1 misdemeanor if the value is less than \$200 \$300.

§ 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 \$300, the jury may find the accused guilty of petit larceny.

§ 19.2-290. Conviction of petit larceny though thing stolen worth more than \$300.

In a prosecution for petit larceny, though the thing stolen be of the value of \$200 \$300 or more, the

183 jury may find the accused guilty; and upon a conviction under this section or § 19.2-289 the accused
184 shall be sentenced for petit larceny.