

Tiering

A Bill for an Act entitled: "An Act ."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-6-301 , MCA, is amended to read:

"45-6-301. Theft. (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

- (a) has the purpose of depriving the owner of the property;
- (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or
- (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and:

- (a) has the purpose of depriving the owner of the property;
- (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or
- (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of

the property.

(3) A person commits the offense of theft when the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

- (a) has the purpose of depriving the owner of the property;
- (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or
- (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county agency, regardless of the original source of assistance, by means of:

- (a) a knowingly false statement, representation, or impersonation; or
- (b) a fraudulent scheme or device.

(5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter 71, by means of:

- (a) a knowingly false statement, representation, or impersonation; or
- (b) deception or other fraudulent action.

(6) (a) A person commits the offense of theft when the person

purposely or knowingly commits insurance fraud as provided in 33-1-1202 or 33-1-1302;

(b) purposely or knowingly diverts or misappropriates insurance premiums as provided in 33-17-1102; or

(c) purposely or knowingly receives small business health insurance premium incentive payments or premium assistance payments or tax credits under Title 33, chapter 22, part 20, to which the person is not entitled.

(7) A person commits the offense of theft of property by embezzlement when, with the purpose to deprive the owner of the property, the person:

(a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer or over property entrusted to the person; or

(b) purposely or knowingly obtains by deception control over property of the person's employer or over property entrusted to the person.

(8) (a) Except as provided in subsection (8)(b), a person convicted of the offense of theft of property not exceeding \$1,500 in value shall be fined an amount not to exceed ~~\$1,500~~ \$500 or be imprisoned in the county jail for a term not to exceed 6 months, ~~or both~~. A person convicted of a second offense shall be fined ~~\$1,500~~ not to exceed \$500 or be imprisoned in the county jail for a term not ~~to exceed~~ of not less than 2 days or more than 6 months, ~~or both~~. A person convicted of a third or subsequent offense shall be fined ~~\$1,500~~ not to exceed \$500 and be imprisoned in the county jail for

a term of not less than ~~30~~ 4 days or more than 6 months.

(b) (i) Except as provided in subsection (8)(c), a person convicted of the offense of theft of property exceeding \$1,500 and less than \$5,000 in value shall be fined an amount not to exceed \$5,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both; a person convicted of the theft of property exceeding \$5,000 in value or theft of any amount of anhydrous ammonia for the purpose of manufacturing dangerous drugs shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(ii) A person convicted of the theft of any commonly domesticated hoofed animal shall be fined an amount of not less than \$5,000 or more than \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both. If a prison term is deferred, the court shall order the offender to perform 416 hours of community service during a 1-year period, in the offender's county of residence. In addition to the fine and imprisonment, the offender's property is subject to criminal forfeiture pursuant to 45-6-328 and 45-6-329.

~~(c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the requirement that restitution be made under terms set by the court. If the terms are not met, the required prison term may be ordered.~~

(9) Amounts involved in thefts committed pursuant to a common

scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property."

{ *Internal References to 45-6-301:*

26-1-608	27-1-718	33-1-1211	33-1-1302
33-17-1102	33-18-401	33-22-2009	39-51-3203
39-71-316	39-71-316	39-71-316	39-71-701
39-71-702	39-71-1006	45-1-205	45-6-314
45-6-315	45-6-328	45-6-328	45-6-328
45-6-328	45-6-328	45-6-328	45-6-328
45-6-328	45-6-328	45-8-405	53-2-107
53-9-111	61-5-205	69-14-1206	69-14-1206 }

Section 2. Section 45-6-309 , MCA, is amended to read:

"45-6-309. Failure to return rented or leased personal property. (1) A person commits the offense of failure to return rented or leased personal property if, without notice to and permission of the lessor, the person purposely and knowingly fails to return the property within 48 hours after the time provided for return in the rental agreement, provided that clear written notice, in bold print, of the date and time when return of the property is required and of the penalty prescribed in this section is stated in the rental or lease agreement.

(2) Presentation to the lessor by the lessee of identification that is false for the purpose of obtaining a rental or lease agreement constitutes prima facie evidence of commission of the offense.

(3) After the rental or lease period specified in the rental or lease agreement has expired, failure to return rented or leased personal property within 72 hours of written demand by the lessor, sent by certified mail to the renter or lessee at the address given

at the time of entering the rental or lease agreement, constitutes prima facie evidence of commission of the offense.

(4) (a) A person convicted of failure to return rented or leased personal property not exceeding \$1,500 and less than \$5,000 in value shall be fined an amount nore to exceed \$5,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both; a person convicted of failure to return rented or leased personal property exceeding \$5,000 in value shall be fined not to exceed \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) A person convicted of failure to return rented or leased personal property exceeding \$1,500 in value shall be imprisoned in the state prison for a term not to exceed 10 years."

{Internal References to 45-6-309: None.}

Section 3. Section 45-6-316 , MCA, is amended to read:

"45-6-316. Issuing a bad check. (1) A person commits the offense of issuing a bad check when the person issues or delivers a check or other order upon a real or fictitious depository for the payment of money knowing that it will not be paid by the depository.

(2) If the offender has an account with the depository, failure to make good the check or other order within 5 days after written notice of nonpayment has been received by the issuer is prima facie evidence that the offender knew that it would not be paid by the depository.

(3) A person convicted of issuing a bad check shall be fined

not to exceed \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. ~~If the offender has engaged in issuing bad checks that are part of a common scheme or if~~ the value of any property, labor, or services obtained or attempted to be obtained exceeds \$1,500 and is less than \$5,000 the offender shall be fined an amount not to exceed \$5,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both; if the value of any property, labor, or services obtained or attempted to be obtained exceeds \$5,000, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both."

{ *Internal References to 45-6-316:*

27-1-717 44-1-1103 }

Section 4. Section 45-6-317 , MCA, is amended to read:

"45-6-317. Deceptive practices. (1) A person commits the offense of deceptive practices when the person purposely or knowingly:

(a) causes another, by deception or threat, to execute a document disposing of property or a document by which a pecuniary obligation is incurred;

(b) makes or directs another to make a false or deceptive statement addressed to the public or any person for the purpose of promoting or procuring the sale of property or services;

(c) makes or directs another to make a false or deceptive statement to any person respecting the financial condition of the

person making or directing another to make the statement for the purpose of procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting to procure a loan or credit regarding that person's financial condition; or

(d) obtains or attempts to obtain property, labor, or services by any of the following means:

(i) using a credit card that was issued to another without the other's consent;

(ii) using a credit card that has been revoked or canceled;

(iii) using a credit card that has been falsely made, counterfeited, or altered in any material respect;

(iv) using the pretended number or description of a fictitious credit card;

(v) using a credit card that has expired when the credit card clearly indicates the expiration date.

(2) A person convicted of the offense of deceptive practices shall be fined not to exceed \$1,500 or imprisoned in the county jail for a term not to exceed 6 months, or both. If the deceptive practices are part of a common scheme or the value of any property, labor, or services obtained or attempted to be obtained exceeds \$1,500 but is less than \$5,000 in value the offender may be fined in an amount not to exceed \$5,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both; if the deceptive practices are part of a common scheme or the value of any property, labor, or services obtained or attempted to be obtained exceeds \$5,000, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state

prison for a term not to exceed 10 years, or both."

{ *Internal References to 45-6-317:*

33-1-1302 37-51-104 37-51-104 45-2-311 }

Section 5. Section 45-6-325 , MCA, is amended to read:

"45-6-325. Forgery. (1) A person commits the offense of forgery when with purpose to defraud the person knowingly:

(a) without authority makes or alters a document or other object apparently capable of being used to defraud another in a manner that it purports to have been made by another or at another time or with different provisions or of different composition;

(b) issues or delivers the document or other object knowing it to have been thus made or altered;

(c) possesses with the purpose of issuing or delivering any such document or other object knowing it to have been thus made or altered; or

(d) possesses with knowledge of its character any plate, die, or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments.

(2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter, or terminate any right, obligation, or power with reference to any person or property.

(3) A document or other object capable of being used to defraud another includes but is not limited to one by which any right, obligation, or power with reference to any person or property may be

created, transferred, altered, or terminated.

(4) A person convicted of the offense of forgery shall be fined not to exceed \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. ~~If the forgery is part of a common scheme or if~~ the value of the property, labor, or services obtained or attempted to be obtained exceeds \$1,500 but is less than \$5,000 the offender may be fined in an amount not to exceed \$5,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both; if the value of the property, labor, or services obtained or attempted to be obtained exceeds \$5,000, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 20 years, or both."

{ Internal References to 45-6-325:

45-8-405 }

Section 6. Section 45-6-332 , MCA, is amended to read:

"45-6-332. Theft of identity. (1) A person commits the offense of theft of identity if the person purposely or knowingly obtains personal identifying information of another person and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the other person without the consent of the other person.

(2) (a) A person convicted of the offense of theft of identity if no economic benefit was gained or was attempted to be gained or if an economic benefit of less than \$1,500 was gained or was attempted

to be gained shall be fined an amount not to exceed \$1,500, imprisoned in the county jail for a term not to exceed 6 months, or both. If the victim is a minor, the offender shall be fined an amount not to exceed \$3,000, imprisoned in the county jail for a term not to exceed 1 year, or both.

(b) A person convicted of the offense of theft of identity if an economic benefit of \$1,500 ~~or more~~ and less than \$5,000 was gained or was attempted to be gained shall be fined an amount not to exceed \$5,000, imprisoned in the state prison for a term not to exceed 5 years, or both; if the economic benefit gained or was attempted to be gained exceeds \$5,000, the person shall be fined an amount not to exceed \$10,000, imprisoned in a state prison for a term not to exceed 10 years, or both. ~~If the victim is a minor, the offender shall be fined an amount not to exceed \$20,000, imprisoned in a state prison for a term not to exceed 20 years, or both.~~

(3) As used in this section, "personal identifying information" includes but is not limited to the name, date of birth, address, telephone number, driver's license number, social security number or other federal government identification number, tribal identification card number, place of employment, employee identification number, mother's maiden name, financial institution account number, credit card number, or similar identifying information relating to a person.

(4) If restitution is ordered, the court may include, as part of its determination of an amount owed, payment for any costs incurred by the victim, including attorney fees and any costs incurred in

clearing the credit history or credit rating of the victim or in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant."

{ *Internal References to 45-6-332:*

30-14-1701 30-14-1712 30¹-14-1728 31-3-132
31-3-132 31-3-132 33-18-605 33-19-410
46-24-218 46-24-219 46-24-220 }

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