

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 859

Short Title: Repeat Misd. Larceny or Shoplifting is Felony.

(Public)

Sponsors: Representative Shubert.

Referred to: Judiciary I.

March 29, 2001

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CRIMINAL PENALTY FOR CERTAIN REPEAT
OFFENSES OF MISDEMEANOR LARCENY OR SHOPLIFTING.

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)(a1), (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,~~ property where the value of the property or goods is not more than one thousand dollars (\$1,000), is a Class 1 misdemeanor. Except as provided in subsections (b) and (c) of this section, a person receiving or possessing stolen goods knowing or having reasonable grounds to believe them to be stolen where the value of the goods is not more than one thousand dollars (\$1,000) is guilty of a Class 1 misdemeanor. In all cases of doubt, the jury shall, in the verdict, fix the value of the property stolen.

(a1) A person convicted within three years of a fifth or subsequent offense of larceny of property where the value of the property is not more than one thousand dollars (\$1,000) is guilty of a Class H felony.

(b) The crime of larceny is a felony, without regard to the value of the property in question, if the larceny is:

(1) From the person; or

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

- 1 (3) Of any explosive or incendiary device or substance. As used in this
2 section, the phrase "explosive or incendiary device or substance" shall
3 include any explosive or incendiary grenade or bomb; any dynamite,
4 blasting powder, nitroglycerin, TNT, or other high explosive; or any
5 device, ingredient for such device, or type or quantity of substance
6 primarily useful for large-scale destruction of property by explosive or
7 incendiary action or lethal injury to persons by explosive or incendiary
8 action. This definition shall not include fireworks; or any form, type,
9 or quantity of gasoline, butane gas, natural gas, or any other substance
10 having explosive or incendiary properties but serving a legitimate
11 nondestructive or nonlethal use in the form, type, or quantity stolen.
- 12 (4) Of any firearm. As used in this section, the term "firearm" shall
13 include any instrument used in the propulsion of a shot, shell or bullet
14 by the action of gunpowder or any other explosive substance within it.
15 A "firearm," which at the time of theft is not capable of being fired,
16 shall be included within this definition if it can be made to work. This
17 definition shall not include air rifles or air pistols.
- 18 (5) Of any record or paper in the custody of the North Carolina State
19 Archives as defined by G.S. 121-2(7) and 121-2(8).

20 (c) The crime of possessing stolen goods knowing or having reasonable grounds
21 to believe them to be stolen in the circumstances described in subsection (b) is a felony
22 or the crime of receiving stolen goods knowing or having reasonable grounds to believe
23 them to be stolen in the circumstances described in subsection (b) is a felony, without
24 regard to the value of the property in question.

25 (d) Where the larceny or receiving or possession of stolen goods as described in
26 subsection (a) of this section involves the merchandise of any store, a merchant, a
27 merchant's agent, a merchant's employee, or a peace officer who detains or causes the
28 arrest of any person shall not be held civilly liable for detention, malicious prosecution,
29 false imprisonment, or false arrest of the person detained or arrested, when such
30 detention is upon the premises of the store or in a reasonable proximity thereto, is in a
31 reasonable manner for a reasonable length of time, and, if in detaining or in causing the
32 arrest of such person, the merchant, the merchant's agent, the merchant's employee, or
33 the peace officer had, at the time of the detention or arrest, probable cause to believe
34 that the person committed an offense under subsection (a) of this section. If the person
35 being detained by the merchant, the merchant's agent, or the merchant's employee, is a
36 minor under the age of 18 years, the merchant, the merchant's agent, or the merchant's
37 employee, shall call or notify, or make a reasonable effort to call or notify the parent or
38 guardian of the minor, during the period of detention. A merchant, a merchant's agent,
39 or a merchant's employee, who makes a reasonable effort to call or notify the parent or
40 guardian of the minor shall not be held civilly liable for failing to notify the parent or
41 guardian of the minor."

42 **SECTION 2.** G.S. 14-72.1 is amended by adding a new subsection to read:

1 "(d2) Notwithstanding subsection (e) of this section, any person convicted of a fifth
2 or subsequent violation of subsection (a) or (d) of this section within three years is
3 guilty of a Class H felony."

4 **SECTION 3.** This act becomes effective December 1, 2001, and applies to
5 offenses committed on or after that date.