

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 13-0372.01 Richard Sweetman x4333

HOUSE BILL 13-1160

HOUSE SPONSORSHIP

Pabon,

SENATE SPONSORSHIP

King,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 CONCERNING CRIMINAL THEFT, AND, IN CONNECTION THEREWITH,
102 REDUCING AN APPROPRIATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill amends the penalties for criminal theft and amends criminal theft to include the existing statutory offenses of theft of rental property and theft by receiving. The existing statutory offenses of theft of rental property, theft by receiving, fuel piracy, and newspaper theft are repealed.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
2nd Reading Unamended
May 1, 2013

HOUSE
3rd Reading Unamended
April 2, 2013

HOUSE
Amended 2nd Reading
April 1, 2013

The bill makes conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-4-401, **amend** (1),
3 (2) (b), (2) (c), (2) (d), and (4); **repeal** (2) (b.5); and **add** (2) (e), (2) (f),
4 (2) (g), (2) (h), (2) (i), and (2) (j) as follows:

5 **18-4-401. Theft.** (1) A person commits theft when he OR SHE
6 knowingly obtains, RETAINS, or exercises control over anything of value
7 of another without authorization or by threat or deception; OR RECEIVES,
8 LOANS MONEY BY PAWN OR PLEDGE ON, OR DISPOSES OF ANYTHING OF
9 VALUE OR BELONGING TO ANOTHER THAT HE OR SHE KNOWS OR BELIEVES
10 TO HAVE BEEN STOLEN, and:

11 (a) Intends to deprive the other person permanently of the use or
12 benefit of the thing of value; ~~or~~

13 (b) Knowingly uses, conceals, or abandons the thing of value in
14 such manner as to deprive the other person permanently of its use or
15 benefit; ~~or~~

16 (c) Uses, conceals, or abandons the thing of value intending that
17 such use, concealment, or abandonment will deprive the other person
18 permanently of its use ~~and~~ OR benefit; ~~or~~

19 (d) Demands any consideration to which he OR SHE is not legally
20 entitled as a condition of restoring the thing of value to the other person;
21 OR

22 (e) KNOWINGLY RETAINS THE THING OF VALUE MORE THAN
23 SEVENTY-TWO HOURS AFTER THE AGREED-UPON TIME OF RETURN IN ANY
24 LEASE OR HIRE AGREEMENT.

25 (2) Theft is:

1 (b) A ~~class 2 misdemeanor~~ CLASS 1 PETTY OFFENSE if the value of
2 the thing involved is less than ~~five hundred~~ FIFTY dollars;

3 (b.5) A ~~class 1 misdemeanor~~ if the value of the thing involved is
4 ~~five hundred dollars or more but less than one thousand dollars~~;

5 (c) A ~~class 4 felony~~ CLASS 3 MISDEMEANOR if the value of the
6 thing involved is ~~one thousand~~ FIFTY dollars or more but less than ~~twenty~~
7 ~~thousand~~ THREE HUNDRED dollars;

8 (d) A ~~class 3 felony~~ CLASS 2 MISDEMEANOR if the value of the
9 thing involved is ~~twenty thousand dollars or more~~ THREE HUNDRED
10 DOLLARS OR MORE BUT LESS THAN SEVEN HUNDRED FIFTY DOLLARS;

11 (e) A CLASS 1 MISDEMEANOR IF THE VALUE OF THE THING
12 INVOLVED IS SEVEN HUNDRED FIFTY DOLLARS OR MORE BUT LESS THAN
13 TWO THOUSAND DOLLARS;

14 (f) A CLASS 6 FELONY IF THE VALUE OF THE THING INVOLVED IS
15 TWO THOUSAND DOLLARS OR MORE BUT LESS THAN FIVE THOUSAND
16 DOLLARS;

17 (g) A CLASS 5 FELONY IF THE VALUE OF THE THING INVOLVED IS
18 FIVE THOUSAND DOLLARS OR MORE BUT LESS THAN TWENTY THOUSAND
19 DOLLARS;

20 (h) A CLASS 4 FELONY IF THE VALUE OF THE THING INVOLVED IS
21 TWENTY THOUSAND DOLLARS OR MORE BUT LESS THAN ONE HUNDRED
22 THOUSAND DOLLARS;

23 (i) A CLASS 3 FELONY IF THE VALUE OF THE THING INVOLVED IS
24 ONE HUNDRED THOUSAND DOLLARS OR MORE BUT LESS THAN ONE MILLION
25 DOLLARS; AND

26 (j) A CLASS 2 FELONY IF THE VALUE OF THE THING INVOLVED IS
27 ONE MILLION DOLLARS OR MORE.

1 (4) (a) When a person commits theft twice or more within a period
2 of six months, two or more of the thefts may be aggregated and charged
3 in a single count, in which event the thefts so aggregated and charged
4 shall constitute a single offense, ~~and, if THE PENALTY FOR WHICH SHALL~~
5 ~~BE BASED ON the aggregate value of the things involved, is one thousand~~
6 ~~dollars or more but less than twenty thousand dollars, it is a class 4~~
7 ~~felony; however, if the aggregate value of the things involved is twenty~~
8 ~~thousand dollars or more, it is a class 3 felony PURSUANT TO SUBSECTION~~
9 (2) OF THIS SECTION.

10 (b) When a person commits theft twice or more against the same
11 person pursuant to one scheme or course of conduct, the thefts may be
12 aggregated and charged in a single count, in which event they shall
13 constitute a single offense, ~~and, if THE PENALTY FOR WHICH SHALL BE~~
14 ~~BASED ON the aggregate value of the things involved, is one thousand~~
15 ~~dollars or more but less than twenty thousand dollars, it is a class 4~~
16 ~~felony; however, if the aggregate value of the things involved is twenty~~
17 ~~thousand dollars or more, it is a class 3 felony PURSUANT TO SUBSECTION~~
18 (2) OF THIS SECTION.

19 **SECTION 2.** In Colorado Revised Statutes, **repeal** 18-4-402 as
20 follows:

21 **18-4-402. Theft of rental property.** ~~(1) A person commits theft~~
22 ~~of rental property if he:~~

23 ~~(a) Obtains the temporary use of personal property of another,~~
24 ~~which is available only for hire, by means of threat or deception, or~~
25 ~~knowing that such use is without the consent of the person providing the~~
26 ~~personal property; or~~

27 ~~(b) Having lawfully obtained possession for temporary use of the~~

1 personal property of another which is available only for hire, knowingly
2 fails to reveal the whereabouts of or to return said property to the owner
3 thereof or his representative or to the person from whom he has received
4 it within seventy-two hours after the time at which he agreed to return it.

5 (2) ~~(Deleted by amendment, L. 2007, p. 1691, § 4, effective July
6 1, 2007.)~~

7 (3) ~~Theft of rental property is a class 2 misdemeanor where the
8 value of the property involved is less than five hundred dollars.~~

9 (3.5) ~~Theft of rental property is a class 1 misdemeanor where the
10 value of the property involved is five hundred dollars or more but less
11 than one thousand dollars.~~

12 (4) ~~Theft of rental property is a class 5 felony where the value of
13 the property involved is one thousand dollars or more but less than twenty
14 thousand dollars.~~

15 (5) ~~Theft of rental property is a class 3 felony where the value of
16 the property involved is twenty thousand dollars or more.~~

17 (6) ~~When a person commits theft of rental property twice or more
18 within a period of six months, two or more of the thefts of rental property
19 may be aggregated and charged in a single count, in which event the
20 thefts so aggregated and charged shall constitute a single offense, and, if
21 the aggregate value of the property involved is one thousand dollars or
22 more but less than twenty thousand dollars, it is a class 5 felony; however,
23 if the aggregate value of the property involved is twenty thousand dollars
24 or more, it is a class 3 felony.~~

25 **SECTION 3.** In Colorado Revised Statutes, **repeal** 18-4-410 as
26 follows:

27 **18-4-410. Theft by receiving.** (1) ~~Except as provided in~~

1 subsection (6) of this section, a person commits theft by receiving when
2 he receives, retains, loans money by pawn or pledge on, or disposes of
3 anything of value of another, knowing or believing that said thing of
4 value has been stolen, and when he intends to deprive the lawful owner
5 permanently of the use or benefit of the thing of value.

6 (2) ~~(Deleted by amendment, L. 2007, p. 1692, § 6, effective July~~
7 ~~1, 2007.)~~

8 (3) ~~Where the value of the thing involved is less than five hundred~~
9 ~~dollars, theft by receiving is a class 2 misdemeanor.~~

10 ~~(3.5) Where the value of the thing involved is five hundred dollars~~
11 ~~or more but less than one thousand dollars, theft by receiving is a class 1~~
12 ~~misdemeanor.~~

13 (4) ~~Where the value of the thing involved is one thousand dollars~~
14 ~~or more but less than twenty thousand dollars, theft by receiving is a class~~
15 ~~4 felony.~~

16 (5) ~~Where the value of the thing involved is twenty thousand~~
17 ~~dollars or more, theft by receiving is a class 3 felony.~~

18 (6) ~~When the aggregate value of the thing or things involved is~~
19 ~~one thousand dollars or more and the person committing theft by~~
20 ~~receiving is engaged in the business of buying, selling, or otherwise~~
21 ~~disposing of stolen goods for a profit, theft by receiving is a class 3~~
22 ~~felony.~~

23 (7) ~~When a person commits theft by receiving twice or more~~
24 ~~within a period of six months, two or more of the thefts by receiving may~~
25 ~~be aggregated and charged in a single count, in which event the thefts so~~
26 ~~aggregated and charged shall constitute a single offense, and, if the~~
27 ~~aggregate value of the things involved is one thousand dollars or more but~~

1 ~~less than twenty thousand dollars, it is a class 4 felony; however, if the~~
2 ~~aggregate value of the things involved is twenty thousand dollars or more,~~
3 ~~it is a class 3 felony.~~

4 **SECTION 4.** In Colorado Revised Statutes, **amend** 18-4-411 as
5 follows:

6 **18-4-411. Transactions for profit in stolen goods.** If any person
7 ~~commits theft by receiving as defined in section 18-4-410 (1) when~~
8 OBTAINS CONTROL OVER STOLEN PROPERTY KNOWING OR BELIEVING THE
9 PROPERTY TO HAVE BEEN STOLEN, AND such offense involves two or more
10 separate stolen things of value each of which is the property of a separate
11 owner, such commission of theft ~~by receiving~~ constitutes prima facie
12 evidence that the person is engaged in the business of buying, selling, or
13 otherwise disposing of stolen goods for a profit.

14 **SECTION 5.** In Colorado Revised Statutes, **repeal** 18-4-418 as
15 follows:

16 **18-4-418. Fuel piracy.** ~~(1) A person commits fuel piracy when~~
17 ~~such person knowingly leaves the premises of an establishment that offers~~
18 ~~fuel for sale after dispensing fuel and knowingly fails to pay for such fuel.~~

19 ~~(2) Fuel piracy is:~~

20 ~~(a) A class 3 misdemeanor if the value of such fuel is less than~~
21 ~~one hundred dollars;~~

22 ~~(b) A class 2 misdemeanor if the value of such fuel is one hundred~~
23 ~~dollars or more but less than five hundred dollars.~~

24 ~~(3) In addition to any other penalty authorized by law, after a~~
25 ~~defendant has been convicted of or has entered a plea of guilty or nolo~~
26 ~~contendere to fuel piracy, the mandatory minimum fine shall be two~~
27 ~~hundred fifty dollars.~~

1 **SECTION 6.** In Colorado Revised Statutes, **repeal** 18-4-419 as
2 follows:

3 **18-4-419. Newspaper theft.** ~~(1) A person commits the offense~~
4 ~~of newspaper theft when that person obtains or exerts unauthorized~~
5 ~~control over more than five copies of an edition of a newspaper from a~~
6 ~~newspaper distribution container owned or leased by the newspaper~~
7 ~~publisher with the intent to prevent other individuals from reading that~~
8 ~~edition of the newspaper. Control is unauthorized if there is a notice on~~
9 ~~the newspaper or on the newspaper distribution container that possession~~
10 ~~of more than five copies with intent to prevent other individuals from~~
11 ~~reading that edition of the newspaper is illegal.~~

12 ~~(2) Newspaper theft is a misdemeanor and shall be punished by~~
13 ~~a fine of:~~

14 ~~(a) Up to one thousand dollars if the number of newspapers~~
15 ~~involved was one hundred or fewer or the number of newspapers~~
16 ~~involved was not determined;~~

17 ~~(b) Up to two thousand five hundred dollars if the number of~~
18 ~~newspapers involved was more than one hundred and fewer than five~~
19 ~~hundred;~~

20 ~~(c) Up to five thousand dollars if the number of newspapers~~
21 ~~involved was five hundred or more.~~

22 ~~(3) As used in this section:~~

23 ~~(a) "Edition of a newspaper" means a single press run of a~~
24 ~~newspaper.~~

25 ~~(b) "Newspaper" means a periodical that includes news, editorials,~~
26 ~~opinion, features, or other matters of public interest that is distributed on~~
27 ~~a complimentary basis. Newspaper includes any student periodical~~

1 distributed at any institution of higher education.

2 (c) ~~"Periodical" means a publication produced on a regular~~
3 ~~interval.~~

4 (4) ~~Notwithstanding any other remedies provided under this~~
5 ~~section, a newspaper publisher who is the victim of newspaper theft, an~~
6 ~~advertiser who placed an advertisement in a newspaper that was subject~~
7 ~~to newspaper theft, or a newspaper reader who regularly reads the~~
8 ~~newspaper subject to newspaper theft shall have a private civil right of~~
9 ~~action as provided in section 13-21-123, C.R.S., against the person or~~
10 ~~persons who acted in violation of subsection (1) of this section.~~

11 (5) ~~This section shall not apply to a person who, with the authority~~
12 ~~or permission of the person who possesses real or personal property,~~
13 ~~removes or disposes of newspapers that have been deposited in or left on~~
14 ~~that property without the authority or permission of the person who~~
15 ~~possesses the real or personal property.~~

16 **SECTION 7.** In Colorado Revised Statutes, **repeal** 13-21-123 as
17 follows:

18 **13-21-123. Civil liability for newspaper theft.** ~~Notwithstanding~~
19 ~~any other remedies provided under this section, a newspaper publisher~~
20 ~~who is the victim of newspaper theft as described in section 18-4-419,~~
21 ~~C.R.S., or who had compensatory newspapers stolen, an advertiser who~~
22 ~~placed an advertisement in a newspaper that was subject to newspaper~~
23 ~~theft or a compensatory newspaper that was stolen, or a newspaper reader~~
24 ~~who regularly reads a newspaper subject to newspaper theft or a~~
25 ~~compensatory newspaper that was stolen shall have a private civil right~~
26 ~~of action against the party who stole the newspapers. In any such action,~~
27 ~~the newspaper publisher shall be entitled to actual damages, a civil~~

1 penalty of ten dollars for each newspaper obtained in violation of section
2 ~~18-4-419, C.R.S., and attorney fees and costs, and the advertiser or~~
3 ~~newspaper reader shall be entitled to actual damages and attorney fees~~
4 ~~and costs.~~

5 **SECTION 8.** In Colorado Revised Statutes, 16-13-303, **amend**
6 (1) (e) (I) and (1) (e) (II) as follows:

7 **16-13-303. Class 1 public nuisance.** (1) Every building or part
8 of a building including the ground upon which it is situate and all fixtures
9 and contents thereof, every vehicle, and any real property shall be deemed
10 a class 1 public nuisance when:

11 (e) (I) Used as a place where the commission of ~~felony~~ theft, ~~by~~
12 ~~receiving~~, as specified in ~~section 18-4-410, C.R.S., occurs or as a place~~
13 ~~where misdemeanor theft by receiving, as specified in said section,~~
14 ~~repeatedly~~ SECTION 18-4-401, C.R.S., occurs;

15 (II) Used for transporting property which is the subject of ~~felony~~
16 ~~theft, by receiving~~, as specified in ~~section 18-4-410, C.R.S., or used for~~
17 ~~repeatedly transporting property which is the subject of misdemeanor~~
18 ~~theft by receiving, as specified in said section 18-4-401, C.R.S.;~~

19 **SECTION 9.** In Colorado Revised Statutes, 18-1-202, **repeal** (7)
20 (b) (II) (B) and (7) (b) (II) (C) as follows:

21 **18-1-202. Place of trial.** (7) (b) (II) The provisions of
22 subparagraph (I) of this paragraph (b) shall apply to the following
23 offenses:

24 (B) ~~Theft of rental property, as defined in section 18-4-402;~~

25 (C) ~~Theft by receiving, as defined in section 18-4-410;~~

26 **SECTION 10.** In Colorado Revised Statutes, 18-13-115, **amend**
27 (1) as follows:

1 **18-13-115. Notice - penalties.** (1) Except in the case of flea
2 markets and similar facilities as provided in this subsection (1), every
3 secondhand dealer shall conspicuously post a notice in a place clearly
4 visible to all buyers and traders which sets forth the provisions of this
5 section and of sections 18-13-114 and 18-13-116 and which sets forth the
6 penalties for violating such sections and for violating ~~section 18-4-410~~
7 SECTION 18-4-401, concerning theft. ~~by receiving~~. Such notification shall
8 include information to the effect that stolen property may be confiscated
9 by any peace officer and returned to the rightful owner without
10 compensation to the buyer. In the case of flea markets and similar
11 facilities, the operator thereof shall post the notice required in this
12 subsection (1) in such a manner as to be obvious to all persons who enter
13 the flea market or similar facility.

14 **SECTION 11.** In Colorado Revised Statutes, 18-17-103, **amend**
15 (5) (b) (II) as follows:

16 **18-17-103. Definitions.** As used in this article, unless the context
17 otherwise requires:

18 (5) "Racketeering activity" means to commit, to attempt to
19 commit, to conspire to commit, or to solicit, coerce, or intimidate another
20 person to commit:

21 (b) Any violation of the following provisions of the Colorado
22 statutes or any criminal act committed in any jurisdiction of the United
23 States which, if committed in this state, would be a crime under the
24 following provisions of the Colorado statutes:

25 (II) Offenses against property, as defined in sections 18-4-102
26 (first degree arson), 18-4-103 (second degree arson), 18-4-104 (third
27 degree arson), 18-4-105 (fourth degree arson), 18-4-202 (first degree

1 burglary), 18-4-203 (second degree burglary), 18-4-301 (robbery),
2 18-4-302 (aggravated robbery), 18-4-303 (aggravated robbery of
3 controlled substances), 18-4-401 (theft), ~~18-4-402 (theft of rental~~
4 ~~property)~~, 18-4-409 (aggravated motor vehicle theft), ~~18-4-410 (theft by~~
5 ~~receiving)~~; and 18-4-501 (criminal mischief);

6 **SECTION 12.** In Colorado Revised Statutes, 42-2-127, **repeal**
7 (15) as follows:

8 **42-2-127. Authority to suspend license - to deny license - type**
9 **of conviction - points.** (15) (a) ~~(I) Whenever the department receives~~
10 ~~notice that a person has twice been convicted of, adjudicated for, or~~
11 ~~entered a plea of guilty or nolo contendere to a violation of section~~
12 ~~18-4-418, C.R.S., the department shall suspend the license of the person~~
13 ~~for a period of six months.~~

14 ~~(H) Whenever the department receives notice that a person has~~
15 ~~three or more times been convicted of, adjudicated for, or entered a plea~~
16 ~~of guilty or nolo contendere to a violation of section 18-4-418, C.R.S., the~~
17 ~~department shall suspend the license of the person for a period of one~~
18 ~~year.~~

19 (b) ~~Upon suspending the license of any person as required by this~~
20 ~~subsection (15), the department shall immediately notify the licensee as~~
21 ~~provided in section 42-2-119 (2).~~

22 (c) ~~Upon a licensee's receipt of the notice of suspension, the~~
23 ~~licensee or the licensee's attorney may submit a written request to the~~
24 ~~department for a hearing. The department shall hold a hearing not less~~
25 ~~than thirty days after receiving such request. The hearing shall be~~
26 ~~conducted by a hearing commissioner appointed by the executive director~~
27 ~~of the department, and shall be conducted in accordance with the~~

1 ~~provisions of section 24-4-105, C.R.S.~~

2 ~~(d) If a driver who has had a license suspended under this~~
3 ~~subsection (15) is subsequently acquitted of such charge by a court of~~
4 ~~record, the department shall immediately, or in any event no later than ten~~
5 ~~days after the receipt of notice of such acquittal, reinstate said license.~~

6 **SECTION 13. Appropriation - adjustments to 2013 long bill.**

7 (1) For the implementation of this act, appropriations made in the annual
8 general appropriation act to the department of corrections for the fiscal
9 year beginning July 1, 2013, are adjusted as follows:

10 (a) The general fund appropriation for payments to in-state private
11 prisons is decreased by \$520,400.

12 (2) For the implementation of this act, appropriations made in the
13 annual general appropriation act to the judicial department for the fiscal
14 year beginning July 1, 2013, are adjusted as follows:

15 (a) The general fund appropriation for trial court programs for
16 personal services, is decreased by \$186,382 and 3.3 FTE.

17 (b) The general fund appropriation for trial court programs for
18 operating expenses, is decreased by \$5,901.

19 (c) The general fund appropriation for the office of the state
20 public defender for personal services, is decreased by \$167,891 and 2.7
21 FTE.

22 (d) The general fund appropriation for the office of the state
23 public defender for operating expenses, is decreased by \$2,351.

24 **SECTION 14. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.