



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER:100

NJSA: 2C:20-1

"Theft of animals"

BILL NO:S252 (Substituted for A191)

SPONSOR(S): Allen and Kyrillos

DATE INTRODUCED: Pre-filed

COMMITTEE:

ASSEMBLY: Agriculture

SENATE: Economic Growth; Law and Public Safety

AMENDED DURING PASSAGE:Yes

DATE OF PASSAGE:

ASSEMBLY: May 28, 1998

SENATE: June 22, 1998

DATE OF APPROVAL: September 9, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: 1st Reprint

(Amendments during passage denoted by superscript numbers)

S252

SPONSORS STATEMENT: *Yes* (Begins on page 6 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:*Yes*

SENATE:*Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

A191

SPONSORS STATEMENT: *Yes* (Begins on page 6 of original bill)
(Bill and Sponsors Statement identical to S252)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

(Identical to Assembly Statement for S252)

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *No*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

[First Reprint]

SENATE, No. 252

STATE OF NEW JERSEY
208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Senator DIANE ALLEN

District 7 (Burlington and Camden)

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Middlesex and Monmouth)

Co-Sponsored by:

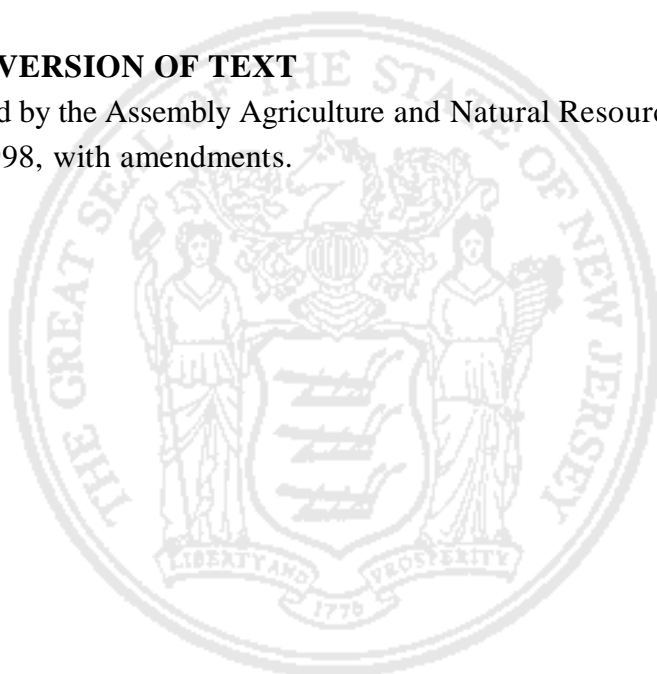
Assemblyman Geist

SYNOPSIS

Provides theft of domestic companion animal to be a third degree crime.

CURRENT VERSION OF TEXT

As reported by the Assembly Agriculture and Natural Resources Committee on May 7, 1998, with amendments.



(Sponsorship Updated As Of: 5/29/1998)

1 AN ACT concerning the theft of animals, amending N.J.S.2C:20-1 and
2 N.J.S.2C:20-2, and supplementing Title 2C of the New Jersey
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. N.J.S.2C:20-1 is amended to read as follows:

9 2C:20-1. Definitions. In chapters 20 and 21, unless a different
10 meaning plainly is required:

11 a. "Deprive" means: (1) to withhold or cause to be withheld
12 property of another permanently or for so extended a period as to
13 appropriate a substantial portion of its economic value, or with
14 purpose to restore only upon payment of reward or other
15 compensation; or (2) to dispose or cause disposal of the property so
16 as to make it unlikely that the owner will recover it.

17 b. "Fiduciary" means an executor, general administrator of an
18 intestate, administrator with the will annexed, substituted
19 administrator, guardian, substituted guardian, trustee under any trust,
20 express, implied, resulting or constructive, substituted trustee,
21 executor, conservator, curator, receiver, trustee in bankruptcy,
22 assignee for the benefit of creditors, partner, agent or officer of a
23 corporation, public or private, temporary administrator, administrator,
24 administrator pendente lite, administrator ad prosequendum,
25 administrator ad litem or other person acting in a similar capacity.

26 c. "Financial institution" means a bank, insurance company, credit
27 union, savings and loan association, investment trust or other
28 organization held out to the public as a place of deposit of funds or
29 medium of savings or collective investment.

30 d. "Government" means the United States, any state, county,
31 municipality, or other political unit, or any department, agency or
32 subdivision of any of the foregoing, or any corporation or other
33 association carrying out the functions of government.

34 e. "Movable property" means property the location of which can
35 be changed, including things growing on, affixed to, or found in land,
36 and documents, although the rights represented thereby have no
37 physical location. "Immovable property" is all other property.

38 f. "Obtain" means: (1) in relation to property, to bring about a
39 transfer or purported transfer of a legal interest in the property,
40 whether to the obtainer or another; or (2) in relation to labor or
41 service, to secure performance thereof.

42 g. "Property" means anything of value, including real estate,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAN committee amendments adopted May 7, 1998.

1 tangible and intangible personal property, trade secrets, contract
2 rights, choses in action and other interests in or claims to wealth,
3 admission or transportation tickets, captured or domestic animals,
4 food and drink, electric, gas, steam or other power, financial
5 instruments, information, data, and computer software, in either
6 human readable or computer readable form, copies or originals.

7 h. "Property of another" includes property in which any person
8 other than the actor has an interest which the actor is not privileged to
9 infringe, regardless of the fact that the actor also has an interest in the
10 property and regardless of the fact that the other person might be
11 precluded from civil recovery because the property was used in an
12 unlawful transaction or was subject to forfeiture as contraband.
13 Property in possession of the actor shall not be deemed property of
14 another who has only a security interest therein, even if legal title is in
15 the creditor pursuant to a conditional sales contract or other security
16 agreement.

17 i. "Trade secret" means the whole or any portion or phase of any
18 scientific or technical information, design, process, procedure, formula
19 or improvement which is secret and of value. A trade secret shall be
20 presumed to be secret when the owner thereof takes measures to
21 prevent it from becoming available to persons other than those
22 selected by the owner to have access thereto for limited purposes.

23 j. "Dealer in property" means a person who buys and sells property
24 as a business.

25 k. "Traffic" means:

26 (1) To sell, transfer, distribute, dispense or otherwise dispose of
27 property to another person; or

28 (2) To buy, receive, possess, or obtain control of or use property,
29 with intent to sell, transfer, distribute, dispense or otherwise dispose
30 of such property to another person.

31 l. "Broken succession of title" means lack of regular documents of
32 purchase and transfer by any seller except the manufacturer of the
33 subject property, or possession of documents of purchase and transfer
34 by any buyer without corresponding documents of sale and transfer in
35 possession of seller, or possession of documents of sale and transfer
36 by seller without corresponding documents of purchase and transfer
37 in possession of any buyer.

38 m. "Person" includes any individual or entity or enterprise, as
39 defined herein, holding or capable of holding a legal or beneficial
40 interest in property.

41 n. "Anything of value" means any direct or indirect gain or
42 advantage to any person.

43 o. "Interest in property which has been stolen" means title or right
44 of possession to such property.

45 p. "Stolen property" means property that has been the subject of
46 any unlawful taking.

1 q. "Enterprise" includes any individual, sole proprietorship,
2 partnership, corporation, business trust, association, or other legal
3 entity, and any union or group of individuals associated in fact,
4 although not a legal entity, and it includes illicit as well as licit
5 enterprises and governmental as well as other entities.

6 r. "Attorney General" includes the Attorney General of New
7 Jersey, his assistants and deputies. The term shall also include a
8 county prosecutor or his designated assistant prosecutor, if a county
9 prosecutor is expressly authorized in writing by the Attorney General
10 to carry out the powers conferred on the Attorney General by this
11 chapter.

12 s. "Access device" means property consisting of any telephone
13 calling card number, credit card number, account number, mobile
14 identification number, electronic serial number, personal identification
15 number, or any other data intended to control or limit access to
16 telecommunications or other computer networks in either human
17 readable or computer readable form, either copy or original, that can
18 be used to obtain telephone service.

19 t. "Defaced access device" means any access device, in either
20 human readable or computer readable form, either copy or original,
21 which has been removed, erased, defaced, altered, destroyed, covered
22 or otherwise changed in any manner from its original configuration.

23 u. "Domestic companion animal" means any animal commonly
24 referred to as a pet or one that has been bought, bred, raised or
25 otherwise acquired, in accordance with local ordinances and State and
26 federal law for the primary purpose of providing companionship to the
27 owner, rather than for business or agricultural purposes.

28 (cf: P.L.1997, c.6, s.1)

29

30 2. N.J.S.2C:20-2 is amended to read as follows:

31 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions
32 Applicable to Theft Generally. a. Consolidation of Theft Offenses.
33 Conduct denominated theft in this chapter constitutes a single offense,
34 but each episode or transaction may be the subject of a separate
35 prosecution and conviction. A charge of theft may be supported by
36 evidence that it was committed in any manner that would be theft
37 under this chapter, notwithstanding the specification of a different
38 manner in the indictment or accusation, subject only to the power of
39 the court to ensure fair trial by granting a bill of particulars, discovery,
40 a continuance, or other appropriate relief where the conduct of the
41 defense would be prejudiced by lack of fair notice or by surprise.

42 b. Grading of theft offenses.

43 (1) Theft constitutes a crime of the second degree if:

44 (a) The amount involved is \$75,000.00 or more;

45 (b) The property is taken by extortion;

46 (c) The property stolen is a controlled dangerous substance or

1 controlled substance analog as defined in N.J.S.2C:35-2 and the
2 quantity is in excess of one kilogram; or

3 (d) The property stolen is a person's benefits under federal or State
4 law, or from any other source, which the Department of Human
5 Services or an agency acting on its behalf has budgeted for the
6 person's health care and the amount involved is \$75,000 or more.

7 (2) Theft constitutes a crime of the third degree if:

8 (a) The amount involved exceeds \$500.00 but is less than
9 \$75,000.00;

10 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
11 horse ¹, domestic companion animal¹ or airplane;

12 (c) The property stolen is a controlled dangerous substance or
13 controlled substance analog as defined in N.J.S.2C:35-2 and the
14 amount involved is less than \$75,000.00 or is undetermined and the
15 quantity is one kilogram or less;

16 (d) It is from the person of the victim;

17 (e) It is in breach of an obligation by a person in his capacity as a
18 fiduciary;

19 (f) It is by threat not amounting to extortion;

20 (g) It is of a public record, writing or instrument kept, filed or
21 deposited according to law with or in the keeping of any public office
22 or public servant;

23 (h) The property stolen is a person's benefits under federal or State
24 law, or from any other source, which the Department of Human
25 Services or an agency acting on its behalf has budgeted for the
26 person's health care and the amount involved is less than \$75,000;

27 (i) The property stolen is any real or personal property related to,
28 necessary for, or derived from research, regardless of value, including,
29 but not limited to, any sample, specimens and components thereof,
30 research subject, including any warm-blooded or cold-blooded animals
31 being used for research or intended for use in research, supplies,
32 records, data or test results, prototypes or equipment, as well as any
33 proprietary information or other type of information related to
34 research;

35 (j) The property stolen is a New Jersey Prescription Blank as
36 referred to in R.S.45:14-14; or

37 (k) The property stolen consists of an access device or a defaced
38 access device.

39 (3) Theft constitutes a crime of the fourth degree if the amount
40 involved is at least \$200.00 but does not exceed \$500.00 ¹ **or the**
41 **property stolen is a domestic companion animal**¹ . If the amount
42 involved was less than \$200.00 the offense constitutes a disorderly
43 persons offense.

44 (4) The amount involved in a theft shall be determined by the trier
45 of fact. The amount shall include, but shall not be limited to, the
46 amount of any State tax avoided, evaded or otherwise unpaid,

1 improperly retained or disposed of. Amounts involved in thefts
2 committed pursuant to one scheme or course of conduct, whether
3 from the same person or several persons, may be aggregated in
4 determining the grade of the offense.

5 c. Claim of right. It is an affirmative defense to prosecution for
6 theft that the actor:

7 (1) Was unaware that the property or service was that of another;

8 (2) Acted under an honest claim of right to the property or service
9 involved or that he had a right to acquire or dispose of it as he did; or

10 (3) Took property exposed for sale, intending to purchase and pay
11 for it promptly, or reasonably believing that the owner, if present,
12 would have consented.

13 d. Theft from spouse. It is no defense that theft was from the
14 actor's spouse, except that misappropriation of household and personal
15 effects, or other property normally accessible to both spouses, is theft
16 only if it occurs after the parties have ceased living together.

17 (cf: P.L.1997, c.6, s.2)

18

19 ¹[3. (New section) Any person who unlawfully takes a domestic
20 companion animal with the intent to sell is guilty of a crime of the third
21 degree.]¹

22

23 ¹[4.] 3.¹ This act shall take effect immediately.

SENATE, No. 252

STATE OF NEW JERSEY
208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Senator DIANE ALLEN

District 7 (Burlington and Camden)

SYNOPSIS

Provides theft of domestic companion animal to be a fourth degree crime, and theft with intent to sell a third degree crime.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the theft of animals, amending N.J.S.2C:20-1 and
2 N.J.S.2C:20-2, and supplementing Title 2C of the New Jersey
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. N.J.S.2C:20-1 is amended to read as follows:

9 2C:20-1. Definitions. In chapters 20 and 21, unless a different
10 meaning plainly is required:

11 a. "Deprive" means: (1) to withhold or cause to be withheld
12 property of another permanently or for so extended a period as to
13 appropriate a substantial portion of its economic value, or with
14 purpose to restore only upon payment of reward or other
15 compensation; or (2) to dispose or cause disposal of the property so
16 as to make it unlikely that the owner will recover it.

17 b. "Fiduciary" means an executor, general administrator of an
18 intestate, administrator with the will annexed, substituted
19 administrator, guardian, substituted guardian, trustee under any trust,
20 express, implied, resulting or constructive, substituted trustee,
21 executor, conservator, curator, receiver, trustee in bankruptcy,
22 assignee for the benefit of creditors, partner, agent or officer of a
23 corporation, public or private, temporary administrator, administrator,
24 administrator pendente lite, administrator ad prosequendum,
25 administrator ad litem or other person acting in a similar capacity.

26 c. "Financial institution" means a bank, insurance company, credit
27 union, savings and loan association, investment trust or other
28 organization held out to the public as a place of deposit of funds or
29 medium of savings or collective investment.

30 d. "Government" means the United States, any state, county,
31 municipality, or other political unit, or any department, agency or
32 subdivision of any of the foregoing, or any corporation or other
33 association carrying out the functions of government.

34 e. "Movable property" means property the location of which can
35 be changed, including things growing on, affixed to, or found in land,
36 and documents, although the rights represented thereby have no
37 physical location. "Immovable property" is all other property.

38 f. "Obtain" means: (1) in relation to property, to bring about a
39 transfer or purported transfer of a legal interest in the property,
40 whether to the obtainer or another; or (2) in relation to labor or
41 service, to secure performance thereof.

42 g. "Property" means anything of value, including real estate,
43 tangible and intangible personal property, trade secrets, contract

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 rights, choses in action and other interests in or claims to wealth,
2 admission or transportation tickets, captured or domestic animals,
3 food and drink, electric, gas, steam or other power, financial
4 instruments, information, data, and computer software, in either
5 human readable or computer readable form, copies or originals.

6 h. "Property of another" includes property in which any person
7 other than the actor has an interest which the actor is not privileged to
8 infringe, regardless of the fact that the actor also has an interest in the
9 property and regardless of the fact that the other person might be
10 precluded from civil recovery because the property was used in an
11 unlawful transaction or was subject to forfeiture as contraband.
12 Property in possession of the actor shall not be deemed property of
13 another who has only a security interest therein, even if legal title is in
14 the creditor pursuant to a conditional sales contract or other security
15 agreement.

16 i. "Trade secret" means the whole or any portion or phase of any
17 scientific or technical information, design, process, procedure, formula
18 or improvement which is secret and of value. A trade secret shall be
19 presumed to be secret when the owner thereof takes measures to
20 prevent it from becoming available to persons other than those
21 selected by the owner to have access thereto for limited purposes.

22 j. "Dealer in property" means a person who buys and sells property
23 as a business.

24 k. "Traffic" means:

25 (1) To sell, transfer, distribute, dispense or otherwise dispose of
26 property to another person; or

27 (2) To buy, receive, possess, or obtain control of or use property,
28 with intent to sell, transfer, distribute, dispense or otherwise dispose
29 of such property to another person.

30 l. "Broken succession of title" means lack of regular documents of
31 purchase and transfer by any seller except the manufacturer of the
32 subject property, or possession of documents of purchase and transfer
33 by any buyer without corresponding documents of sale and transfer in
34 possession of seller, or possession of documents of sale and transfer
35 by seller without corresponding documents of purchase and transfer
36 in possession of any buyer.

37 m. "Person" includes any individual or entity or enterprise, as
38 defined herein, holding or capable of holding a legal or beneficial
39 interest in property.

40 n. "Anything of value" means any direct or indirect gain or
41 advantage to any person.

42 o. "Interest in property which has been stolen" means title or right
43 of possession to such property.

44 p. "Stolen property" means property that has been the subject of
45 any unlawful taking.

46 q. "Enterprise" includes any individual, sole proprietorship,

1 partnership, corporation, business trust, association, or other legal
2 entity, and any union or group of individuals associated in fact,
3 although not a legal entity, and it includes illicit as well as licit
4 enterprises and governmental as well as other entities.

5 r. "Attorney General" includes the Attorney General of New
6 Jersey, his assistants and deputies. The term shall also include a
7 county prosecutor or his designated assistant prosecutor, if a county
8 prosecutor is expressly authorized in writing by the Attorney General
9 to carry out the powers conferred on the Attorney General by this
10 chapter.

11 s. "Access device" means property consisting of any telephone
12 calling card number, credit card number, account number, mobile
13 identification number, electronic serial number, personal identification
14 number, or any other data intended to control or limit access to
15 telecommunications or other computer networks in either human
16 readable or computer readable form, either copy or original, that can
17 be used to obtain telephone service.

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19 human readable or computer readable form, either copy or original,
20 which has been removed, erased, defaced, altered, destroyed, covered
21 or otherwise changed in any manner from its original configuration.

22 u. "Domestic companion animal" means any animal commonly
23 referred to as a pet or one that has been bought, bred, raised or
24 otherwise acquired, in accordance with local ordinances and State and
25 federal law for the primary purpose of providing companionship to the
26 owner, rather than for business or agricultural purposes.

27 (cf: P.L.1997, c.6, s.1)

28
29 2. N.J.S.2C:20-2 is amended to read as follows:

30 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions
31 Applicable to Theft Generally. a. Consolidation of Theft Offenses.
32 Conduct denominated theft in this chapter constitutes a single offense,
33 but each episode or transaction may be the subject of a separate
34 prosecution and conviction. A charge of theft may be supported by
35 evidence that it was committed in any manner that would be theft
36 under this chapter, notwithstanding the specification of a different
37 manner in the indictment or accusation, subject only to the power of
38 the court to ensure fair trial by granting a bill of particulars, discovery,
39 a continuance, or other appropriate relief where the conduct of the
40 defense would be prejudiced by lack of fair notice or by surprise.

41 b. Grading of theft offenses.

42 (1) Theft constitutes a crime of the second degree if:

43 (a) The amount involved is \$75,000.00 or more;

44 (b) The property is taken by extortion;

45 (c) The property stolen is a controlled dangerous substance or
46 controlled substance analog as defined in N.J.S.2C:35-2 and the

1 quantity is in excess of one kilogram; or
2 (d) The property stolen is a person's benefits under federal or State
3 law, or from any other source, which the Department of Human
4 Services or an agency acting on its behalf has budgeted for the
5 person's health care and the amount involved is \$75,000 or more.
6 (2) Theft constitutes a crime of the third degree if:
7 (a) The amount involved exceeds \$500.00 but is less than
8 \$75,000.00;
9 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
10 horse or airplane;
11 (c) The property stolen is a controlled dangerous substance or
12 controlled substance analog as defined in N.J.S.2C:35-2 and the
13 amount involved is less than \$75,000.00 or is undetermined and the
14 quantity is one kilogram or less;
15 (d) It is from the person of the victim;
16 (e) It is in breach of an obligation by a person in his capacity as a
17 fiduciary;
18 (f) It is by threat not amounting to extortion;
19 (g) It is of a public record, writing or instrument kept, filed or
20 deposited according to law with or in the keeping of any public office
21 or public servant;
22 (h) The property stolen is a person's benefits under federal or State
23 law, or from any other source, which the Department of Human
24 Services or an agency acting on its behalf has budgeted for the
25 person's health care and the amount involved is less than \$75,000;
26 (i) The property stolen is any real or personal property related to,
27 necessary for, or derived from research, regardless of value, including,
28 but not limited to, any sample, specimens and components thereof,
29 research subject, including any warm-blooded or cold-blooded animals
30 being used for research or intended for use in research, supplies,
31 records, data or test results, prototypes or equipment, as well as any
32 proprietary information or other type of information related to
33 research;
34 (j) The property stolen is a New Jersey Prescription Blank as
35 referred to in R.S.45:14-14; or
36 (k) The property stolen consists of an access device or a defaced
37 access device.
38 (3) Theft constitutes a crime of the fourth degree if the amount
39 involved is at least \$200.00 but does not exceed \$500.00 or the
40 property stolen is a domestic companion animal . If the amount
41 involved was less than \$200.00 the offense constitutes a disorderly
42 persons offense.
43 (4) The amount involved in a theft shall be determined by the trier
44 of fact. The amount shall include, but shall not be limited to, the
45 amount of any State tax avoided, evaded or otherwise unpaid,
46 improperly retained or disposed of. Amounts involved in thefts

1 committed pursuant to one scheme or course of conduct, whether
2 from the same person or several persons, may be aggregated in
3 determining the grade of the offense.

4 c. Claim of right. It is an affirmative defense to prosecution for
5 theft that the actor:

6 (1) Was unaware that the property or service was that of another;

7 (2) Acted under an honest claim of right to the property or service
8 involved or that he had a right to acquire or dispose of it as he did; or

9 (3) Took property exposed for sale, intending to purchase and pay
10 for it promptly, or reasonably believing that the owner, if present,
11 would have consented.

12 d. Theft from spouse. It is no defense that theft was from the
13 actor's spouse, except that misappropriation of household and personal
14 effects, or other property normally accessible to both spouses, is theft
15 only if it occurs after the parties have ceased living together.

16 (cf: P.L.1997, c.6, s.2)

17

18 3. (New section) Any person who unlawfully takes a domestic
19 companion animal with the intent to sell is guilty of a crime of the third
20 degree.

21

22 4. This act shall take effect immediately.

23

24

STATEMENT

25

26 This bill would make the theft of a domestic companion animal a
27 crime of the fourth degree. It would also make the unlawful taking of
28 a domestic companion animal with the intent to sell a crime of the
29 third degree. A domestic companion animal is any animal commonly
30 referred to as a pet or one that has been bought, bred, raised or
31 otherwise acquired in accordance with local ordinances and State and
32 federal law for the primary purpose of providing companionship to the
33 owner, rather than for business or agricultural purposes.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

SENATE, No. 252

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 7, 1998

The Assembly Agriculture and Natural Resources Committee reports favorably and with committee amendments Senate Bill No. 252.

This bill, as amended by the committee, would make the theft of a domestic companion animal a crime of the third degree. A domestic companion animal is any animal commonly referred to as a pet or one that has been bought, bred, raised or otherwise acquired in accordance with local ordinances and State and federal law for the primary purpose of providing companionship to the owner, rather than for business or agricultural purposes.

The committee amended the bill to provide that theft of a domestic companion animal is a crime of the third degree, regardless of further intent on the part of the thief. The bill originally provided that such theft would be a crime of the fourth degree, but that such theft accompanied by the intent to sell the animal constituted a crime of the third degree.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 191 of 1998 as also amended and reported by the committee.

SENATE ECONOMIC GROWTH, AGRICULTURE AND
TOURISM COMMITTEE

STATEMENT TO

SENATE, No. 252

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 1998

The Senate Economic Growth, Agriculture and Tourism Committee reports favorably Senate Bill No. 252.

This bill would make the theft of a domestic companion animal a crime of the fourth degree. It would also make the unlawful taking of a domestic companion animal with the intent to sell a crime of the third degree. A domestic companion animal is any animal commonly referred to as a pet or one that has been bought, bred, raised or otherwise acquired in accordance with local ordinances and State and federal law for the primary purpose of providing companionship to the owner, rather than for business or agricultural purposes.

This bill was pre-filed for introduction in the 1998 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

ASSEMBLY, No. 191

STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Assemblyman GEORGE F. GEIST

District 4 (Camden and Gloucester)

SYNOPSIS

Provides theft of domestic companion animal to be a fourth degree crime, and theft with intent to sell a third degree crime.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A191 GEIST

2

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10 meaning plainly is required:

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12 property of another permanently or for so extended a period as to
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15 compensation; or (2) to dispose or cause disposal of the property so
16 as to make it unlikely that the owner will recover it.

17 b. "Fiduciary" means an executor, general administrator of an
18 intestate, administrator with the will annexed, substituted
19 administrator, guardian, substituted guardian, trustee under any trust,
20 express, implied, resulting or constructive, substituted trustee,
21 executor, conservator, curator, receiver, trustee in bankruptcy,
22 assignee for the benefit of creditors, partner, agent or officer of a
23 corporation, public or private, temporary administrator, administrator,
24 administrator pendente lite, administrator ad prosequendum,
25 administrator ad litem or other person acting in a similar capacity.

26 c. "Financial institution" means a bank, insurance company, credit
27 union, savings and loan association, investment trust or other
28 organization held out to the public as a place of deposit of funds or
29 medium of savings or collective investment.

30 d. "Government" means the United States, any state, county,
31 municipality, or other political unit, or any department, agency or
32 subdivision of any of the foregoing, or any corporation or other
33 association carrying out the functions of government.

34 e. "Movable property" means property the location of which can
35 be changed, including things growing on, affixed to, or found in land,
36 and documents, although the rights represented thereby have no
37 physical location. "Immovable property" is all other property.

38 f. "Obtain" means: (1) in relation to property, to bring about a
39 transfer or purported transfer of a legal interest in the property,
40 whether to the obtainer or another; or (2) in relation to labor or
41 service, to secure performance thereof.

42 g. "Property" means anything of value, including real estate,
43 tangible and intangible personal property, trade secrets, contract

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

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3

1 rights, choses in action and other interests in or claims to wealth,
2 admission or transportation tickets, captured or domestic animals,
3 food and drink, electric, gas, steam or other power, financial
4 instruments, information, data, and computer software, in either
5 human readable or computer readable form, copies or originals.

6 h. "Property of another" includes property in which any person
7 other than the actor has an interest which the actor is not privileged to
8 infringe, regardless of the fact that the actor also has an interest in the
9 property and regardless of the fact that the other person might be
10 precluded from civil recovery because the property was used in an
11 unlawful transaction or was subject to forfeiture as contraband.
12 Property in possession of the actor shall not be deemed property of
13 another who has only a security interest therein, even if legal title is in
14 the creditor pursuant to a conditional sales contract or other security
15 agreement.

16 i. "Trade secret" means the whole or any portion or phase of any
17 scientific or technical information, design, process, procedure, formula
18 or improvement which is secret and of value. A trade secret shall be
19 presumed to be secret when the owner thereof takes measures to
20 prevent it from becoming available to persons other than those
21 selected by the owner to have access thereto for limited purposes.

22 j. "Dealer in property" means a person who buys and sells property
23 as a business.

24 k. "Traffic" means:

25 (1) To sell, transfer, distribute, dispense or otherwise dispose of
26 property to another person; or

27 (2) To buy, receive, possess, or obtain control of or use property,
28 with intent to sell, transfer, distribute, dispense or otherwise dispose
29 of such property to another person.

30 l. "Broken succession of title" means lack of regular documents of
31 purchase and transfer by any seller except the manufacturer of the
32 subject property, or possession of documents of purchase and transfer
33 by any buyer without corresponding documents of sale and transfer in
34 possession of seller, or possession of documents of sale and transfer
35 by seller without corresponding documents of purchase and transfer
36 in possession of any buyer.

37 m. "Person" includes any individual or entity or enterprise, as
38 defined herein, holding or capable of holding a legal or beneficial
39 interest in property.

40 n. "Anything of value" means any direct or indirect gain or
41 advantage to any person.

42 o. "Interest in property which has been stolen" means title or right
43 of possession to such property.

44 p. "Stolen property" means property that has been the subject of
45 any unlawful taking.

46 q. "Enterprise" includes any individual, sole proprietorship,

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1 partnership, corporation, business trust, association, or other legal
2 entity, and any union or group of individuals associated in fact,
3 although not a legal entity, and it includes illicit as well as licit
4 enterprises and governmental as well as other entities.

5 r. "Attorney General" includes the Attorney General of New
6 Jersey, his assistants and deputies. The term shall also include a
7 county prosecutor or his designated assistant prosecutor, if a county
8 prosecutor is expressly authorized in writing by the Attorney General
9 to carry out the powers conferred on the Attorney General by this
10 chapter.

11 s. "Access device" means property consisting of any telephone
12 calling card number, credit card number, account number, mobile
13 identification number, electronic serial number, personal identification
14 number, or any other data intended to control or limit access to
15 telecommunications or other computer networks in either human
16 readable or computer readable form, either copy or original, that can
17 be used to obtain telephone service.

18 t. "Defaced access device" means any access device, in either
19 human readable or computer readable form, either copy or original,
20 which has been removed, erased, defaced, altered, destroyed, covered
21 or otherwise changed in any manner from its original configuration.

22 u. "Domestic companion animal" means any animal commonly
23 referred to as a pet or one that has been bought, bred, raised or
24 otherwise acquired, in accordance with local ordinances and State and
25 federal law for the primary purpose of providing companionship to the
26 owner, rather than for business or agricultural purposes.

27 (cf: P.L.1997, c.6, s.1)

28

29 2. N.J.S.2C:20-2 is amended to read as follows:

30 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions
31 Applicable to Theft Generally. a. Consolidation of Theft Offenses.
32 Conduct denominated theft in this chapter constitutes a single offense,
33 but each episode or transaction may be the subject of a separate
34 prosecution and conviction. A charge of theft may be supported by
35 evidence that it was committed in any manner that would be theft
36 under this chapter, notwithstanding the specification of a different
37 manner in the indictment or accusation, subject only to the power of
38 the court to ensure fair trial by granting a bill of particulars, discovery,
39 a continuance, or other appropriate relief where the conduct of the
40 defense would be prejudiced by lack of fair notice or by surprise.

41 b. Grading of theft offenses.

42 (1) Theft constitutes a crime of the second degree if:

43 (a) The amount involved is \$75,000.00 or more;

44 (b) The property is taken by extortion;

45 (c) The property stolen is a controlled dangerous substance or
46 controlled substance analog as defined in N.J.S.2C:35-2 and the

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- 1 quantity is in excess of one kilogram; or
- 2 (d) The property stolen is a person's benefits under federal or State
3 law, or from any other source, which the Department of Human
4 Services or an agency acting on its behalf has budgeted for the
5 person's health care and the amount involved is \$75,000 or more.
- 6 (2) Theft constitutes a crime of the third degree if:
- 7 (a) The amount involved exceeds \$500.00 but is less than
8 \$75,000.00;
- 9 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
10 horse or airplane;
- 11 (c) The property stolen is a controlled dangerous substance or
12 controlled substance analog as defined in N.J.S.2C:35-2 and the
13 amount involved is less than \$75,000.00 or is undetermined and the
14 quantity is one kilogram or less;
- 15 (d) It is from the person of the victim;
- 16 (e) It is in breach of an obligation by a person in his capacity as a
17 fiduciary;
- 18 (f) It is by threat not amounting to extortion;
- 19 (g) It is of a public record, writing or instrument kept, filed or
20 deposited according to law with or in the keeping of any public office
21 or public servant;
- 22 (h) The property stolen is a person's benefits under federal or State
23 law, or from any other source, which the Department of Human
24 Services or an agency acting on its behalf has budgeted for the
25 person's health care and the amount involved is less than \$75,000;
- 26 (i) The property stolen is any real or personal property related to,
27 necessary for, or derived from research, regardless of value, including,
28 but not limited to, any sample, specimens and components thereof,
29 research subject, including any warm-blooded or cold-blooded animals
30 being used for research or intended for use in research, supplies,
31 records, data or test results, prototypes or equipment, as well as any
32 proprietary information or other type of information related to
33 research;
- 34 (j) The property stolen is a New Jersey Prescription Blank as
35 referred to in R.S.45:14-14; or
- 36 (k) The property stolen consists of an access device or a defaced
37 access device.
- 38 (3) Theft constitutes a crime of the fourth degree if the amount
39 involved is at least \$200.00 but does not exceed \$500.00 or the
40 property stolen is a domestic companion animal. If the amount
41 involved was less than \$200.00 the offense constitutes a disorderly
42 persons offense.
- 43 (4) The amount involved in a theft shall be determined by the trier
44 of fact. The amount shall include, but shall not be limited to, the
45 amount of any State tax avoided, evaded or otherwise unpaid,
46 improperly retained or disposed of. Amounts involved in thefts

1 committed pursuant to one scheme or course of conduct, whether
2 from the same person or several persons, may be aggregated in
3 determining the grade of the offense.

4 c. Claim of right. It is an affirmative defense to prosecution for
5 theft that the actor:

6 (1) Was unaware that the property or service was that of another;

7 (2) Acted under an honest claim of right to the property or service
8 involved or that he had a right to acquire or dispose of it as he did; or

9 (3) Took property exposed for sale, intending to purchase and pay
10 for it promptly, or reasonably believing that the owner, if present,
11 would have consented.

12 d. Theft from spouse. It is no defense that theft was from the
13 actor's spouse, except that misappropriation of household and personal
14 effects, or other property normally accessible to both spouses, is theft
15 only if it occurs after the parties have ceased living together.

16 (cf: P.L.1997, c.6, s.2)

17

18 3. (New section) Any person who unlawfully takes a domestic
19 companion animal with the intent to sell is guilty of a crime of the third
20 degree.

21

22 4. This act shall take effect immediately.

23

24

25 STATEMENT

26

27 This bill would make the theft of a domestic companion animal a
28 crime of the fourth degree. It would also make the unlawful taking of
29 a domestic companion animal with the intent to sell a crime of the
30 third degree. A domestic companion animal is any animal commonly
31 referred to as a pet or one that has been bought, bred, raised or
32 otherwise acquired in accordance with local ordinances and State and
33 federal law for the primary purpose of providing companionship to the
34 owner, rather than for business or agricultural purposes.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 191

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 7, 1998

The Assembly Agriculture and Natural Resources Committee reports favorably and with committee amendments Assembly Bill No. 191.

This bill, as amended by the committee, would make the theft of a domestic companion animal a crime of the third degree. A domestic companion animal is any animal commonly referred to as a pet or one that has been bought, bred, raised or otherwise acquired in accordance with local ordinances and State and federal law for the primary purpose of providing companionship to the owner, rather than for business or agricultural purposes.

The committee amended the bill to provide that theft of a domestic companion animal is a crime of the third degree, regardless of further intent on the part of the thief. The bill originally provided that such theft would be a crime of the fourth degree, but that such theft accompanied by the intent to sell the animal constituted a crime of the third degree.

As amended and reported by the committee, this bill is identical to Senate Bill No. 252 of 1998 as also amended and reported by the committee.

This bill was pre-filed for introduction in the 1998-1999 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.