



February 15, 2019

HOUSE BILL No. 1323

DIGEST OF HB 1323 (Updated February 13, 2019 5:40 pm - DI 131)

Citations Affected: IC 35-43.

Synopsis: Theft. Provides that a person commits the offense of theft if the person knowingly or intentionally exerts unauthorized control over property and then uses the Internet to sell, deliver, or distribute the property to another person acting as an enterprise engaged in racketeering activity.

Effective: July 1, 2019.

Negele, Schaibley

January 14, 2019, read first time and referred to Committee on Courts and Criminal Code.
February 14, 2019, amended, reported — Do Pass.

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February 15, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1323

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-43-4-2, AS AMENDED BY P.L.176-2018,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 2. (a) A person who knowingly or intentionally
4 exerts unauthorized control over property of another person, with intent
5 to deprive the other person of any part of its value or use, commits
6 theft, a Class A misdemeanor. However, the offense is:
7 (1) a Level 6 felony if:
8 (A) the value of the property is at least seven hundred fifty
9 dollars (\$750) and less than fifty thousand dollars (\$50,000);
10 (B) the property is a:
11 (i) firearm;
12 (ii) motor vehicle (as defined in IC 9-13-2-105(a)); or
13 (iii) component part (as defined in IC 9-13-2-34) of a motor
14 vehicle; or
15 **(C) the person exerts unauthorized control over property,**
16 **and then uses the Internet to sell, deliver, or distribute the**
17 **property to another person acting as an enterprise engaged**

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- 1 **in racketeering activity (as described in IC 35-45-6-1); or**
 2 ~~(C)~~ **(D) the person has a prior unrelated conviction for:**
 3 (i) theft under this section; or
 4 (ii) criminal conversion under section 3 of this chapter; and
 5 (2) a Level 5 felony if:
 6 (A) the value of the property is at least fifty thousand dollars
 7 (\$50,000);
 8 (B) the property that is the subject of the theft is a valuable
 9 metal (as defined in IC 25-37.5-1-1) and:
 10 (i) relates to transportation safety;
 11 (ii) relates to public safety; or
 12 (iii) is taken from a hospital or other health care facility,
 13 telecommunications provider, public utility (as defined in
 14 IC 32-24-1-5.9(a)), or key facility;
 15 and the absence of the property creates a substantial risk of
 16 bodily injury to a person; ~~or~~
 17 (C) the property is a:
 18 (i) motor vehicle (as defined in IC 9-13-2-105(a)); or
 19 (ii) component part (as defined in IC 9-13-2-34) of a motor
 20 vehicle; and
 21 the person has a prior unrelated conviction for theft of a motor
 22 vehicle (as defined in IC 9-13-2-105(a)) or theft of a
 23 component part (as defined in IC 9-13-2-34); ~~or~~
 24 **(D) the:**
 25 **(i) person exerts unauthorized control over property,**
 26 **and then uses the Internet to sell, deliver, or distribute**
 27 **the property to another person acting as an enterprise**
 28 **engaged in racketeering activity (as described in**
 29 **IC 35-45-6-1); and**
 30 **(ii) value of the property is at least seven hundred fifty**
 31 **dollars (\$750).**
 32 (b) For purposes of this section, "the value of property" means:
 33 (1) the fair market value of the property at the time and place the
 34 offense was committed; or
 35 (2) if the fair market value of the property cannot be satisfactorily
 36 determined, the cost to replace the property within a reasonable
 37 time after the offense was committed.
 38 A price tag or price marking on property displayed or offered for sale
 39 constitutes prima facie evidence of the value of the property.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1323, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 7.

Page 3, line 24, delete "person;" and insert **"person acting as an enterprise engaged in racketeering activity (as described in IC 35-45-6-1); or"**.

Page 3, line 27, reset in roman "and".

Page 3, delete lines 28 through 37.

Page 4, delete lines 15 through 42, begin a new line double block indented and insert:

"(D) the:

(i) person exerts unauthorized control over property, and then uses the Internet to sell, deliver, or distribute the property to another person acting as an enterprise engaged in racketeering activity (as described in IC 35-45-6-1); and

(ii) value of the property is at least seven hundred fifty dollars (\$750)."

Page 5, delete lines 1 through 13.

Page 5, line 14, reset in roman "(b)".

Page 5, line 14, delete "(c)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1323 as introduced.)

MCNAMARA

Committee Vote: yeas 11, nays 0.

