

## CHAPTER 1

**AN ACT** concerning lost or stolen electronic vehicle identification system transponders, amending N.J.S.2C:20-2 and supplementing Title 2C of the New Jersey Statutes and Title 27 of the Revised Statutes.

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

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

Consolidation of theft and computer criminal activity offenses; grading; provisions applicable to theft generally.

2C:20-2. a. Consolidation of Theft and Computer Criminal Activity Offenses. Conduct denominated theft or computer criminal activity in this chapter constitutes a single offense, but each episode or transaction may be the subject of a separate prosecution and conviction. A charge of theft or computer criminal activity may be supported by evidence that it was committed in any manner that would be theft or computer criminal activity under this chapter, notwithstanding the specification of a different manner in the indictment or accusation, subject only to the power of the court to ensure fair trial by granting a bill of particulars, discovery, a continuance, or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

b. Grading of theft offenses.

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

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

(b) The property is taken by extortion;

(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the quantity is in excess of one kilogram;

(d) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is \$75,000.00 or more; or

(e) The property stolen is human remains or any part thereof; except that, if the human remains are stolen by deception or falsification of a document by which a gift of all or part of a human body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), the theft constitutes a crime of the first degree.

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

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

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

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

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

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

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

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

(h) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is less than \$75,000.00;

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

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

(k) The property stolen consists of an access device or a defaced access device; or

(l) The property stolen consists of anhydrous ammonia and the actor intends it to be used to manufacture methamphetamine.

(3) Theft constitutes a crime of the fourth degree if the amount involved is at least \$200.00 but does not exceed \$500.00.

(4) Theft constitutes a disorderly persons offense if:

(a) The amount involved was less than \$200.00; or

(b) The property stolen is an electronic vehicle identification system transponder.

The amount involved in a theft or computer criminal activity shall be determined by the trier of fact. The amount shall include, but shall not be limited to, the amount of any State tax avoided, evaded or otherwise unpaid, improperly retained or disposed of. Amounts involved in thefts or computer criminal activities committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense.

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

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

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

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

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

C.2C:20-38 Penalty for theft of electronic vehicle identification system transponder.

2. Notwithstanding the provisions of Title 2C of the New Jersey Statutes to the contrary, a person convicted of theft of an electronic vehicle identification system transponder under subparagraph (b) of paragraph (4) of subsection b. of N.J.S.2C:20-2 shall, in lieu of the fine prescribed for that offense, be subject to a fine of not less than \$500 nor more than \$10,000 upon conviction.

C.27:23-34.6 Report of loss, theft of electronic vehicle identification system transponder; limited liability.

3. a. A customer who has an account with a New Jersey electronic toll collection system, subject to sections 6 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5), and who reports in a timely manner to the operator of the electronic toll collection system the loss or theft of an electronic vehicle identification system transponder shall not be liable for:

(1) unauthorized charges of \$50 or more incurred prior to the reporting of the transponder as lost or stolen; or

(2) unauthorized charges incurred after the reporting of the transponder as lost or stolen.

b. When a customer reports in a timely manner to the operator of the electronic toll collection system the theft of a transponder and submits to the operator a copy of the police report of the theft, the customer shall not be charged any fees for the stolen transponder or for a replacement transponder.

C.27:25A-21.6 Report of loss, theft of electronic vehicle identification system transponder; limited liability.

4. a. A customer who has an account with a New Jersey electronic toll collection system, subject to sections 11 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5), and who reports in a timely manner to the operator of the electronic toll collection system the loss or theft of an electronic vehicle identification system transponder shall not be liable for:

(1) unauthorized charges of \$50 or more incurred prior to the reporting of the transponder as lost or stolen; or

(2) unauthorized charges incurred after the reporting of the transponder as lost or stolen.

b. When a customer reports in a timely manner to the operator of the electronic toll collection system the theft of a transponder and submits to the operator a copy of the police report of the theft, the customer shall not be charged any fees for the stolen transponder or for a replacement transponder.

5. This act shall take effect immediately.

Approved January 25, 2011.