

By Mr. Rouse of Boston, petition of Richard J. Rouse, Thomas M. Finneran and Kevin G. Honan for legislation to codify motor vehicle theft related felonies and provide for presumptive sentencing. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Eight.

AN ACT TO CODIFY MOTOR VEHICLE THEFT RELATED FELONIES AND PROVIDE FOR PRESUMPTIVE SENTENCING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section twenty-eight of chapter two hundred and
2 sixty-six is hereby amended by striking out subsections (a) and
3 (b) and inserting in place thereof the following subsections: —

4 (a) A person who steals, buys, receives, possesses, conceals, or
5 obtains control of a motor vehicle or trailer, knowing or having
6 reason to know the same to have been stolen, or who takes a motor
7 vehicle without the authority of the owner and steals from it any
8 parts or accessories, is guilty of a Class C felony.

9 Evidence that an identifying number or numbers of a motor
10 vehicle or trailer or part thereof has been intentionally and
11 maliciously removed, defaced, altered, changed, destroyed,
12 obliterated, or mutilated, shall be prima facie evidence that the
13 defendant knew or had reason to know that the motor vehicle,
14 or trailer or part thereof had been stolen.

15 (b) A person convicted of a second or subsequent offense of
16 violating the provisions of subsection (a) is guilty of a Class B
17 felony.

18 (c) A person who conceals any motor vehicle or of a trailer thief
19 knowing him to be such, is guilty of a Class C felony.

20 (d) A term sentence shall be imposed upon each person who
21 is found guilty of a violation of any provision of Section twenty-
22 eight except as provided in subsection (f). A term sentence shall

23 consist of an imprisonment or a supervision component or both.
24 The maximum term sentence, presumptive imprisonment range
25 and maximum fine for each class of crime specified above shall
26 be:

27 (1)(a) The maximum term sentence for a Class B felony shall
28 not be greater than fifteen years.

29 (b) The presumptive imprisonment range for a Class B felony
30 shall be six years to nine and one half years.

31 (c) The maximum fine for a Class B felony shall not exceed
32 thirty-five thousand dollars.

33 (2)(a) The maximum term sentence for a Class C felony shall
34 not be greater than ten years.

35 (b) The presumptive imprisonment range for a Class C felony
36 shall be three to five and one half years.

37 (c) The maximum fine for a Class C felony shall not exceed
38 thirty thousand dollars.

39 (e) A prosecution commenced for violation of this section shall
40 not be placed on file nor continued without a finding.

41 (f) A judge may only impose a lesser sentence than as provided
42 for above if an extraordinary circumstance and unique factual
43 circumstance exists. In such a case the judge shall make and enter
44 detailed specific findings upon the record concerning the
45 extraordinary circumstances and unique factual situation in the
46 case presented which mitigate against the imposition of the
47 imprisonment range specified above.

1 SECTION 2. Section twenty-eight of chapter two hundred and
2 sixty-six is hereby further amended by redesignating former
3 subsection (c) as new subsection (f) and inserting it after new
4 subsection (e).

1 SECTION 3. Section one hundred and thirty-nine of chapter
2 two hundred and sixty-six is hereby amended by striking out the
3 first sentence of subsections (a), (b), and (c) and inserting in place
4 thereof the following: —

5 (a) A person who intentionally and maliciously removes,
6 defaces, alters, changes, destroys, obliterates or mutilates or
7 causes to be removed or destroyed or in any way defaced, altered,

8 obliterated or mutilated, the identifying number or numbers of
9 a motor vehicle or trailer, is guilty of a Class F felony.

10 (b) A person who sells, transfers, distributes, dispenses or
11 otherwise disposes of or attempts to sell, transfer, distribute,
12 dispense or otherwise dispose of any motor vehicle or trailer or
13 motor vehicle part knowing or having reason to believe that the
14 identifying number or numbers to said motor vehicle, trailer or
15 vehicle part have been so removed, defaced, altered, changed,
16 destroyed, obliterated, or mutilated, unless authorized by law to
17 do so, is guilty of a Class F felony.

18 (c) A person who buys, receives, possesses, or obtains control
19 of a motor vehicle, trailer, or motor vehicle part knowing or
20 having reason to believe that an identifying number to said vehicle,
21 trailer, or vehicle part has been removed, obliterated, tampered
22 with or altered, unless authorized by law to do so, is guilty of a
23 Class G felony.

1 SECTION 4. Section one hundred and thirty-nine of chapter
2 two hundred and sixty-six is hereby further amended by inserting
3 after subsection (c), the following new subsections: —

4 (d) A term sentence shall be imposed upon each person who
5 is found guilty of a violation of any provision of Section one
6 hundred and thirty-nine, except as provided in subsection (f). A
7 term sentence shall consist of an imprisonment or a supervision
8 component or both. The maximum term sentence, presumptive
9 imprisonment range and maximum fine for each class of crimes
10 specified above shall be:

11 (1)(a) The maximum term sentence for a Class F felony shall
12 not be greater than three years.

13 (b) The presumptive range for a Class F felony shall be five
14 months to ten months.

15 (c) The maximum fine for a Class F felony shall not exceed ten
16 thousand dollars.

17 (2)(a) The maximum term sentence for a Class G felony shall
18 be not greater than two years.

19 (b) The presumptive imprisonment range for a Class G felony
20 shall be three months to six months.

21 (c) The maximum fine for a Class G felony shall not exceed
22 five thousand dollars.

23 (e) A prosecution commenced for violation of this section shall
24 not be placed on file nor continued without a finding.

25 (f) A judge may only impose a lesser sentence than as provided
26 for above if an extraordinary circumstance and unique factual
27 circumstance exists. In such a case the judge shall make and enter
28 detailed specific findings upon the record concerning the
29 extraordinary circumstances and unique factual situation in the
30 case presented which mitigate against the imposition of the
31 imprisonment range specified above.

1 SECTION 5. The act shall take effect one year from the date
2 of enactment and shall apply to those offenses committed on or
3 after the effective date.

4 For any offense committed before said effective date, the law
5 then in effect shall apply to all proceedings conducted pursuant
6 to such offenses including but not limited to the procedures for
7 imposing and the length of the sentences.