

As Introduced

**125th General Assembly
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H. B. No. 536

**Representatives Schlichter, Latta, Wolpert, McGregor, Reidelbach,
Aslanides, S. Smith, Webster, Hollister, Hoops, DeWine, Setzer, Daniels,
Schaffer**

A B I L L

To amend sections 2913.01 and 2913.02 of the Revised 1
Code to make the penalty for theft of anhydrous 2
ammonia a felony of the third degree. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2913.01 and 2913.02 of the Revised 4
Code be amended to read as follows: 5

Sec. 2913.01. As used in this chapter, unless the context 6
requires that a term be given a different meaning: 7

(A) "Deception" means knowingly deceiving another or causing 8
another to be deceived by any false or misleading representation, 9
by withholding information, by preventing another from acquiring 10
information, or by any other conduct, act, or omission that 11
creates, confirms, or perpetuates a false impression in another, 12
including a false impression as to law, value, state of mind, or 13
other objective or subjective fact. 14

(B) "Defraud" means to knowingly obtain, by deception, some 15
benefit for oneself or another, or to knowingly cause, by 16
deception, some detriment to another. 17

(C) "Deprive" means to do any of the following: 18

(1) Withhold property of another permanently, or for a period 19
that appropriates a substantial portion of its value or use, or 20
with purpose to restore it only upon payment of a reward or other 21
consideration; 22

(2) Dispose of property so as to make it unlikely that the 23
owner will recover it; 24

(3) Accept, use, or appropriate money, property, or services, 25
with purpose not to give proper consideration in return for the 26
money, property, or services, and without reasonable justification 27
or excuse for not giving proper consideration. 28

(D) "Owner" means, unless the context requires a different 29
meaning, any person, other than the actor, who is the owner of, 30
who has possession or control of, or who has any license or 31
interest in property or services, even though the ownership, 32
possession, control, license, or interest is unlawful. 33

(E) "Services" include labor, personal services, professional 34
services, public utility services, common carrier services, and 35
food, drink, transportation, entertainment, and cable television 36
services and, for purposes of section 2913.04 of the Revised Code, 37
include cable services as defined in that section. 38

(F) "Writing" means any computer software, document, letter, 39
memorandum, note, paper, plate, data, film, or other thing having 40
in or upon it any written, typewritten, or printed matter, and any 41
token, stamp, seal, credit card, badge, trademark, label, or other 42
symbol of value, right, privilege, license, or identification. 43

(G) "Forge" means to fabricate or create, in whole or in part 44
and by any means, any spurious writing, or to make, execute, 45
alter, complete, reproduce, or otherwise purport to authenticate 46
any writing, when the writing in fact is not authenticated by that 47

conduct.	48
(H) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver, or display.	49 50
(I) "Coin machine" means any mechanical or electronic device designed to do both of the following:	51 52
(1) Receive a coin, bill, or token made for that purpose;	53
(2) In return for the insertion or deposit of a coin, bill, or token, automatically dispense property, provide a service, or grant a license.	54 55 56
(J) "Slug" means an object that, by virtue of its size, shape, composition, or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill, or token made for that purpose.	57 58 59 60
(K) "Theft offense" means any of the following:	61
(1) A violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 2913.47, former section 2913.47 or 2913.48, or section 2913.51, 2915.05, or 2921.41 of the Revised Code;	62 63 64 65 66 67
(2) A violation of an existing or former municipal ordinance or law of this or any other state, or of the United States, substantially equivalent to any section listed in division (K)(1) of this section or a violation of section 2913.41, 2913.81, or 2915.06 of the Revised Code as it existed prior to July 1, 1996;	68 69 70 71 72
(3) An offense under an existing or former municipal ordinance or law of this or any other state, or of the United States, involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;	73 74 75 76 77

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (K)(1), (2), or (3) of this section. 78
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(L) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use, or data that is contained within a computer system or computer network. 81
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(M) "Computer" means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program, or communication facilities that are connected, or related, in a computer system or network to an electronic device of that nature. 85
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(N) "Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output, and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks. 92
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(O) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities. 97
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(P) "Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, cause the computer to process data. 102
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(Q) "Computer software" means computer programs, procedures, and other documentation associated with the operation of a computer system. 105
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(R) "Data" means a representation of information, knowledge, 108
facts, concepts, or instructions that are being or have been 109
prepared in a formalized manner and that are intended for use in a 110
computer, computer system, or computer network. For purposes of 111
section 2913.47 of the Revised Code, "data" has the additional 112
meaning set forth in division (A) of that section. 113

(S) "Cable television service" means any services provided by 114
or through the facilities of any cable television system or other 115
similar closed circuit coaxial cable communications system, or any 116
microwave or similar transmission service used in connection with 117
any cable television system or other similar closed circuit 118
coaxial cable communications system. 119

(T) "Gain access" means to approach, instruct, communicate 120
with, store data in, retrieve data from, or otherwise make use of 121
any resources of a computer, computer system, or computer network, 122
or any cable service or cable system both as defined in section 123
2913.04 of the Revised Code. 124

(U) "Credit card" includes, but is not limited to, a card, 125
code, device, or other means of access to a customer's account for 126
the purpose of obtaining money, property, labor, or services on 127
credit, or for initiating an electronic fund transfer at a 128
point-of-sale terminal, an automated teller machine, or a cash 129
dispensing machine. It also includes a county procurement card 130
issued under section 301.29 of the Revised Code. 131

(V) "Electronic fund transfer" has the same meaning as in 92 132
Stat. 3728, 15 U.S.C.A. 1693a, as amended. 133

(W) "Rented property" means personal property in which the 134
right of possession and use of the property is for a short and 135
possibly indeterminate term in return for consideration; the 136
rentee generally controls the duration of possession of the 137
property, within any applicable minimum or maximum term; and the 138

amount of consideration generally is determined by the duration of 139
possession of the property. 140

(X) "Telecommunication" means the origination, emission, 141
dissemination, transmission, or reception of data, images, 142
signals, sounds, or other intelligence or equivalence of 143
intelligence of any nature over any communications system by any 144
method, including, but not limited to, a fiber optic, electronic, 145
magnetic, optical, digital, or analog method. 146

(Y) "Telecommunications device" means any instrument, 147
equipment, machine, or other device that facilitates 148
telecommunication, including, but not limited to, a computer, 149
computer network, computer chip, computer circuit, scanner, 150
telephone, cellular telephone, pager, personal communications 151
device, transponder, receiver, radio, modem, or device that 152
enables the use of a modem. 153

(Z) "Telecommunications service" means the providing, 154
allowing, facilitating, or generating of any form of 155
telecommunication through the use of a telecommunications device 156
over a telecommunications system. 157

(AA) "Counterfeit telecommunications device" means a 158
telecommunications device that, alone or with another 159
telecommunications device, has been altered, constructed, 160
manufactured, or programmed to acquire, intercept, receive, or 161
otherwise facilitate the use of a telecommunications service or 162
information service without the authority or consent of the 163
provider of the telecommunications service or information service. 164
"Counterfeit telecommunications device" includes, but is not 165
limited to, a clone telephone, clone microchip, tumbler telephone, 166
or tumbler microchip; a wireless scanning device capable of 167
acquiring, intercepting, receiving, or otherwise facilitating the 168
use of telecommunications service or information service without 169
immediate detection; or a device, equipment, hardware, or software 170

designed for, or capable of, altering or changing the electronic 171
serial number in a wireless telephone. 172

(BB)(1) "Information service" means, subject to division 173
(BB)(2) of this section, the offering of a capability for 174
generating, acquiring, storing, transforming, processing, 175
retrieving, utilizing, or making available information via 176
telecommunications, including, but not limited to, electronic 177
publishing. 178

(2) "Information service" does not include any use of a 179
capability of a type described in division (BB)(1) of this section 180
for the management, control, or operation of a telecommunications 181
system or the management of a telecommunications service. 182

(CC) "Elderly person" means a person who is sixty-five years 183
of age or older. 184

(DD) "Disabled adult" means a person who is eighteen years of 185
age or older and has some impairment of body or mind that makes 186
the person unfit to work at any substantially remunerative 187
employment that the person otherwise would be able to perform and 188
that will, with reasonable probability, continue for a period of 189
at least twelve months without any present indication of recovery 190
from the impairment, or who is eighteen years of age or older and 191
has been certified as permanently and totally disabled by an 192
agency of this state or the United States that has the function of 193
so classifying persons. 194

(EE) "Firearm" and "dangerous ordnance" have the same 195
meanings as in section 2923.11 of the Revised Code. 196

(FF) "Motor vehicle" has the same meaning as in section 197
4501.01 of the Revised Code. 198

(GG) "Dangerous drug" has the same meaning as in section 199
4729.01 of the Revised Code. 200

(HH) "Drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code. 201
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(II) "Anhydrous ammonia" is a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described in this division. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately eighty-two per cent nitrogen to eighteen per cent hydrogen. 203
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Sec. 2913.02. (A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways: 210
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(1) Without the consent of the owner or person authorized to give consent; 214
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(2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent; 216
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(3) By deception; 218

(4) By threat; 219

(5) By intimidation. 220

(B)(1) Whoever violates this section is guilty of theft. 221

(2) Except as otherwise provided in this division or division (B)(3), (4), (5), ~~or (6)~~, or (7) of this section, a violation of this section is petty theft, a misdemeanor of the first degree. If the value of the property or services stolen is five hundred dollars or more and is less than five thousand dollars or if the property stolen is any of the property listed in section 2913.71 of the Revised Code, a violation of this section is theft, a felony of the fifth degree. If the value of the property or 222
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services stolen is five thousand dollars or more and is less than 230
one hundred thousand dollars, a violation of this section is grand 231
theft, a felony of the fourth degree. If the value of the property 232
or services stolen is one hundred thousand dollars or more and is 233
less than five hundred thousand dollars, a violation of this 234
section is aggravated theft, a felony of the third degree. If the 235
value of the property or services is five hundred thousand dollars 236
or more and is less than one million dollars, a violation of this 237
section is aggravated theft, a felony of the second degree. If the 238
value of the property or services stolen is one million dollars or 239
more, a violation of this section is aggravated theft of one 240
million dollars or more, a felony of the first degree. 241

(3) Except as otherwise provided in division (B)(4), (5), ~~or~~ 242
(6), or (7) of this section, if the victim of the offense is an 243
elderly person or disabled adult, a violation of this section is 244
theft from an elderly person or disabled adult, and division 245
(B)(3) of this section applies. Except as otherwise provided in 246
this division, theft from an elderly person or disabled adult is a 247
felony of the fifth degree. If the value of the property or 248
services stolen is five hundred dollars or more and is less than 249
five thousand dollars, theft from an elderly person or disabled 250
adult is a felony of the fourth degree. If the value of the 251
property or services stolen is five thousand dollars or more and 252
is less than twenty-five thousand dollars, theft from an elderly 253
person or disabled adult is a felony of the third degree. If the 254
value of the property or services stolen is twenty-five thousand 255
dollars or more and is less than one hundred thousand dollars, 256
theft from an elderly person or disabled adult is a felony of the 257
second degree. If the value of the property or services stolen is 258
one hundred thousand dollars or more, theft from an elderly person 259
or disabled adult is a felony of the first degree. 260

(4) If the property stolen is a firearm or dangerous 261

ordnance, a violation of this section is grand theft, a felony of 262
the third degree, and there is a presumption in favor of the court 263
imposing a prison term for the offense. The offender shall serve 264
the prison term consecutively to any other prison term or 265
mandatory prison term previously or subsequently imposed upon the 266
offender. 267

(5) If the property stolen is a motor vehicle, a violation of 268
this section is grand theft of a motor vehicle, a felony of the 269
fourth degree. 270

(6) If the property stolen is any dangerous drug, a violation 271
of this section is theft of drugs, a felony of the fourth degree, 272
or, if the offender previously has been convicted of a felony drug 273
abuse offense, a felony of the third degree. 274

(7) If the property stolen is anhydrous ammonia, a violation 275
of this section is theft of anhydrous ammonia, a felony of the 276
third degree. 277

(8) In addition to the penalties described in division (B)(2) 278
of this section, if the offender committed the violation by 279
causing a motor vehicle to leave the premises of an establishment 280
at which gasoline is offered for retail sale without the offender 281
making full payment for gasoline that was dispensed into the fuel 282
tank of the motor vehicle or into another container, the court may 283
do one of the following: 284

(a) Unless division (B)~~(7)~~(8)(b) of this section applies, 285
suspend for not more than six months the offender's driver's 286
license, probationary driver's license, commercial driver's 287
license, temporary instruction permit, or nonresident operating 288
privilege; 289

(b) If the offender's driver's license, probationary driver's 290
license, commercial driver's license, temporary instruction 291
permit, or nonresident operating privilege has previously been 292

suspended pursuant to division (B)~~(7)~~(8)(a) of this section, 293
impose a class seven suspension of the offender's license, permit, 294
or privilege from the range specified in division (A)(7) of 295
section 4510.02 of the Revised Code, provided that the suspension 296
shall be for at least six months. 297

(C) The sentencing court that suspends an offender's license, 298
permit, or nonresident operating privilege under division 299
(B)~~(7)~~(8) of this section may grant the offender limited driving 300
privileges during the period of the suspension in accordance with 301
Chapter 4510. of the Revised Code. 302

Section 2. That existing sections 2913.01 and 2913.02 of the 303
Revised Code are hereby repealed. 304

Section 3. Section 2913.02 of the Revised Code is presented 305
in this act as a composite of the section as amended by Am. Sub. 306
H.B. 7, Am. Sub. H.B. 12, and Sub. H.B. 179 of the 125th General 307
Assembly. The General Assembly, applying the principle stated in 308
division (B) of section 1.52 of the Revised Code that amendments 309
are to be harmonized if reasonably capable of simultaneous 310
operation, finds that the composite is the resulting version of 311
the section in effect prior to the effective date of the section 312
as presented in this act. 313