

AN ACT

relating to the penalty for theft of an automated teller machine or the contents or components of an automated teller machine.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (e), Section 31.03, Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than:

(A) \$50; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is:

(i) \$50 or more but less than \$500; or

(ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(B) the value of the property stolen is less than:

(i) \$50 and the defendant has previously been convicted of any grade of theft; or

1 (ii) \$20, the defendant has previously been
2 convicted of any grade of theft, and the defendant obtained the
3 property by issuing or passing a check or similar sight order in a
4 manner described by Section 31.06; or

5 (C) the property stolen is a driver's license,
6 commercial driver's license, or personal identification
7 certificate issued by this state or another state;

8 (3) a Class A misdemeanor if the value of the property
9 stolen is \$500 or more but less than \$1,500;

10 (4) a state jail felony if:

11 (A) the value of the property stolen is \$1,500 or
12 more but less than \$20,000, or the property is less than 10 head of
13 sheep, swine, or goats or any part thereof under the value of
14 \$20,000;

15 (B) regardless of value, the property is stolen
16 from the person of another or from a human corpse or grave,
17 including property that is a military grave marker;

18 (C) the property stolen is a firearm, as defined
19 by Section 46.01;

20 (D) the value of the property stolen is less than
21 \$1,500 and the defendant has been previously convicted two or more
22 times of any grade of theft;

23 (E) the property stolen is an official ballot or
24 official carrier envelope for an election; or

25 (F) the value of the property stolen is less than
26 \$20,000 and the property stolen is insulated or noninsulated
27 tubing, rods, water gate stems, wire, or cable that consists of at

1 least 50 percent:

- 2 (i) aluminum;
- 3 (ii) bronze; or
- 4 (iii) copper;

5 (5) a felony of the third degree if the value of the
6 property stolen is \$20,000 or more but less than \$100,000, or the
7 property is:

8 (A) cattle, horses, or exotic livestock or exotic
9 fowl as defined by Section 142.001, Agriculture Code, stolen during
10 a single transaction and having an aggregate value of less than
11 \$100,000; or

12 (B) 10 or more head of sheep, swine, or goats
13 stolen during a single transaction and having an aggregate value of
14 less than \$100,000;

15 (6) a felony of the second degree if:

16 (A) the value of the property stolen is \$100,000
17 or more but less than \$200,000; or

18 (B) the value of the property stolen is less than
19 \$200,000 and the property stolen is an automated teller machine or
20 the contents or components of an automated teller machine; or

21 (7) a felony of the first degree if the value of the
22 property stolen is \$200,000 or more.

23 SECTION 2. Subsection (h), Section 31.03, Penal Code, is
24 amended by adding Subdivision (4) to read as follows:

25 (4) "Automated teller machine" means an unstaffed
26 electronic information processing device that, at the request of a
27 user, performs a financial transaction through the direct

1 transmission of electronic impulses to a financial institution or
2 through the recording of electronic impulses or other indicia of a
3 transaction for delayed transmission to a financial institution.
4 The term includes an automated banking machine.

5 SECTION 3. The change in law made by this Act applies only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect when the offense was committed, and
9 the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense occurred
12 before that date.

13 SECTION 4. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 887 passed the Senate on March 31, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 887 passed the House on May 9, 2011, by the following vote: Yeas 142, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor