

HOUSE BILL REPORT

HB 2034

As Amended by the Senate

Title: An act relating to providing a civil cause of action for victims of motor vehicle theft.

Brief Description: Providing a civil cause of action for victims of motor vehicle theft.

Sponsors: By Representatives Jarrett, Clibborn, Roberts and Hurst.

Brief History:

Committee Activity:

Judiciary: 2/21/07, 2/23/07 [DP].

Floor Activity:

Passed House: 3/7/07, 97-0.

Senate Amended.

Passed Senate: 4/6/07, 44-3.

Brief Summary of Bill

- Creates a civil cause of action for car theft.
- Allows recovery of actual damages, civil damages of up to \$5,000, and costs of the lawsuit, including reasonable attorneys' fees.
- Requires driver's license suspension until obligations are fully paid following a civil lawsuit.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Lantz, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Ahern, Kirby, Moeller, Pedersen and Williams.

Staff: Bill Perry (786-7123).

Background:

Crimes Involving the Theft or Taking of a Car.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

At least four criminal statutes apply to the theft or unauthorized taking of a car. Two are general theft statutes and two apply specifically to taking cars. First degree theft is a class B felony and consists of the unauthorized taking of property with the intent to deprive the owner of it, where the property is either worth more than \$1,500, or is taken directly from the person who owns it. Second degree theft is a class C felony, and one form of the crime consists of taking a car worth less than \$1,500 with the intent to deprive the owner of it. Two other crimes deal with taking a car without permission. The first degree taking without permission crime is a class B felony, and consists of taking a car and changing its appearance or identification number, removing parts with the intent to sell them, or taking the car with the intent to sell it. The second degree taking without permission crime is a class C felony and consists of taking the car without permission, or driving or riding in the car knowing it was taken without permission.

As is the case with all crimes, the prosecution must prove all elements of these theft and taking crimes beyond a reasonable doubt. As part of a criminal conviction, a defendant may be ordered to make restitution to a victim for harm or damage done.

Civil Law Actions for Car Theft.

At common law, an owner of property may have a cause of action for the tort of conversion against someone who takes the property. A conversion is the act of willfully interfering with personal property without lawful justification and thereby depriving possession of the property to someone who is entitled to possession. The tort does not require that the plaintiff show the defendant acted with the intent to deprive possession.

As is generally the case with civil lawsuits, the plaintiff must establish his or her case by a preponderance of the evidence. A common law action for the theft of property entitles the plaintiff to recover actual damages and certain statutory costs associated with bringing the lawsuit. As is the case with most civil lawsuits at common law, however, each party bears the costs of its own legal representation.

Service of Process.

To initiate a lawsuit, the plaintiff must serve notice on the defendant. Generally, service must be made personally on the defendant or by leaving the summons with a person of suitable age at the defendant's residence. If the defendant is not a resident of the state, or has left the state in order to avoid service, the defendant may be served through publication in a newspaper of general circulation.

In the case of motor vehicle drivers who are involved in accidents, out-of-state drivers and resident drivers who cannot be found are deemed to have consented to having the Secretary of State act as their attorney in fact for purposes of receiving legal process.

Summary of Bill:

A person who is deprived of his or her car because of a violation of one of the four car theft statutes may sue the perpetrator. In addition to actual damages, the plaintiff is entitled to

recover civil damages of up to \$5,000 and the costs of the suit, including reasonable attorneys' fees.

Summons is to be served on the defendant personally, unless he or she cannot be found after a diligent search, in which case service may be made on the Secretary of State. The plaintiff must file affidavits indicating compliance with the service requirements. The court may order a continuance as needed to allow the defendant a reasonable chance to defend the action.

The Department of Licensing is to suspend the driver's license of the defendant until all monetary obligations imposed as a result of a lawsuit are paid in full. An exception to the mandatory suspension is provided if the defendant has entered into a payment plan with the court.

EFFECT OF SENATE AMENDMENT(S):

Provides that the actual damages that are recoverable under the act are "limited to" damage to the vehicle and property stolen from the vehicle, rather than providing that actual damages "include" damage to the vehicle and property stolen from it.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The bill will make it easier for the victims of car theft to get restoration for their loss.

(With concerns) The district courts, as well as the superior courts, should have jurisdiction over this cause of action.

(Opposed) None.

Persons Testifying: (In support) Representative Jarrett, prime sponsor.

(With concerns) Jeff Hall, Board for Judicial Review.

Persons Signed In To Testify But Not Testifying: None.