

By Representative Betancourt

1 A bill to be entitled
 2 An act relating to cargo theft; amending s.
 3 550.6305, F.S., to conform; amending s.
 4 812.012, F.S.; providing additional
 5 definitions; amending s. 812.014, F.S.;
 6 specifying felony penalties for theft of
 7 certain cargo; providing for minimum mandatory
 8 sentences for cargo theft under certain
 9 circumstances; amending s. 921.0022, F.S.;
 10 revising the offense severity ranking chart to
 11 conform; reenacting s. 538.23, F.S., to
 12 conform; providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsection (10) of section 550.6305,
 17 Florida Statutes, is amended to read:
 18 550.6305 Intertrack wagering; guest track payments;
 19 accounting rules.--

20 (10) All races or games conducted at a permitholder's
 21 facility, all broadcasts of such races or games, and all
 22 broadcast rights relating thereto are owned by the
 23 permitholder at whose facility such races or games are
 24 conducted and constitute the permitholder's property as
 25 defined in s. 812.012(~~3~~). Transmission, reception of a
 26 transmission, exhibition, use, or other appropriation of such
 27 races or games, broadcasts of such races or games, or
 28 broadcast rights relating thereto without the written consent
 29 of the permitholder constitutes a theft of such property under
 30 s. 812.014; and in addition to the penal sanctions contained
 31 in s. 812.014, the permitholder has the right to avail itself

1 of the civil remedies specified in ss. 772.104, 772.11, and
2 812.035 in addition to any other remedies available under
3 applicable state or federal law.

4 Section 2. Section 812.012, Florida Statutes, is
5 amended to read:

6 812.012 Definitions.--As used in ss. 812.012-812.037:

7 (1) "Cargo" means partial or entire shipments,
8 containers, or cartons of property which are contained in or
9 on a trailer, motortruck, aircraft, vessel, warehouse, freight
10 station, freight consolidation facility, or air navigation
11 facility.

12 (2)~~(1)~~ "Dealer in property" means any person in the
13 business of buying and selling property.

14 (3)~~(8)~~ "Enterprise" means any individual, sole
15 proprietorship, partnership, corporation, business trust,
16 union chartered under the laws of this state, or other legal
17 entity, or any unchartered union, association, or group of
18 individuals associated in fact although not a legal entity.

19 (4)~~(2)~~ "Obtains or uses" means any manner of:

20 (a) Taking or exercising control over property.

21 (b) Making any unauthorized use, disposition, or
22 transfer of property.

23 (c) Obtaining property by fraud, willful
24 misrepresentation of a future act, or false promise.

25 (d)1. Conduct previously known as stealing; larceny;
26 purloining; abstracting; embezzlement; misapplication;
27 misappropriation; conversion; or obtaining money or property
28 by false pretenses, fraud, or deception; or

29 2. Other conduct similar in nature.

30 (5)~~(3)~~ "Property" means anything of value, and
31 includes:

- 1 (a) Real property, including things growing on,
2 affixed to, and found in land.
- 3 (b) Tangible or intangible personal property,
4 including rights, privileges, interests, and claims.
- 5 (c) Services.
- 6 (6)~~(4)~~ "Property of another" means property in which a
7 person has an interest upon which another person is not
8 privileged to infringe without consent, whether or not the
9 other person also has an interest in the property.
- 10 (7)~~(5)~~ "Services" means anything of value resulting
11 from a person's physical or mental labor or skill, or from the
12 use, possession, or presence of property, and includes:
- 13 (a) Repairs or improvements to property.
- 14 (b) Professional services.
- 15 (c) Private, public, or government communication,
16 transportation, power, water, or sanitation services.
- 17 (d) Lodging accommodations.
- 18 (e) Admissions to places of exhibition or
19 entertainment.
- 20 (8)~~(6)~~ "Stolen property" means property that has been
21 the subject of any criminally wrongful taking.
- 22 (9)~~(7)~~ "Traffic" means:
- 23 (a) To sell, transfer, distribute, dispense, or
24 otherwise dispose of property.
- 25 (b) To buy, receive, possess, obtain control of, or
26 use property with the intent to sell, transfer, distribute,
27 dispense, or otherwise dispose of such property.
- 28 (10)~~(9)~~ "Value" means value determined according to
29 any of the following:
- 30 (a)1. Value means the market value of the property at
31 the time and place of the offense or, if such cannot be

1 satisfactorily ascertained, the cost of replacement of the
2 property within a reasonable time after the offense.

3 2. The value of a written instrument that does not
4 have a readily ascertainable market value, in the case of an
5 instrument such as a check, draft, or promissory note, is the
6 amount due or collectible or is, in the case of any other
7 instrument which creates, releases, discharges, or otherwise
8 affects any valuable legal right, privilege, or obligation,
9 the greatest amount of economic loss that the owner of the
10 instrument might reasonably suffer by virtue of the loss of
11 the instrument.

12 3. The value of a trade secret that does not have a
13 readily ascertainable market value is any reasonable value
14 representing the damage to the owner, suffered by reason of
15 losing an advantage over those who do not know of or use the
16 trade secret.

17 (b) If the value of property cannot be ascertained,
18 the trier of fact may find the value to be not less than a
19 certain amount; if no such minimum value can be ascertained,
20 the value is an amount less than \$100.

21 (c) Amounts of value of separate properties involved
22 in thefts committed pursuant to one scheme or course of
23 conduct, whether the thefts are from the same person or from
24 several persons, may be aggregated in determining the grade of
25 the offense.

26 Section 3. Paragraphs (a) and (b) of subsection (2) of
27 section 812.014, Florida Statutes, are amended, and paragraph
28 (f) is added to said subsection, to read:

29 812.014 Theft.--

30 (2)(a)1. If the property stolen is valued at \$100,000
31 or more or is cargo valued at \$50,000 or more that has entered

1 the stream of interstate or intrastate commerce from the
2 shipper's loading platform to the consignee's receiving dock;
3 or
4 2. If the offender commits any grand theft and:
5 a. In the course of committing the offense the
6 offender uses a motor vehicle as an instrumentality, other
7 than merely as a getaway vehicle, to assist in committing the
8 offense and thereby damages the real property of another; or
9 b. In the course of committing the offense the
10 offender causes damage to the real or personal property of
11 another in excess of \$1,000,
12
13 the offender commits grand theft in the first degree,
14 punishable as a felony of the first degree, as provided in s.
15 775.082, s. 775.083, or s. 775.084.
16 (b) If the property stolen is valued at \$20,000 or
17 more, but less than \$100,000, or is cargo valued at less than
18 \$50,000 that has entered the stream of interstate or
19 intrastate commerce from the shipper's loading platform to the
20 consignee's receiving dock,the offender commits grand theft
21 in the second degree, punishable as a felony of the second
22 degree, as provided in s. 775.082, s. 775.083, or s. 775.084.
23 (f) Upon a second or subsequent conviction for
24 stealing cargo pursuant to subparagraph (a)1. or paragraph
25 (b), the offender shall be sentenced to a minimum mandatory
26 term of no less than 3 years' imprisonment.
27 Section 4. Paragraphs (f) and (g) of subsection (3) of
28 section 921.0022, Florida Statutes, are amended to read:
29 921.0022 Criminal Punishment Code; offense severity
30 ranking chart.--
31 (3) OFFENSE SEVERITY RANKING CHART

1	2	3	4	5	6
7	8	9	10	11	12
13	14	15	16	17	18
19	20	21	22	23	24
25	26	27	28	29	30
31					
	Florida	Felony			
	Statute	Degree		Description	
				(f) LEVEL 6	
	316.027(1)(b)	2nd		Accident involving death, failure	
				to stop; leaving scene.	
	316.193(2)(b)	3rd		Felony DUI, 4th or subsequent	
				conviction.	
	775.0875(1)	3rd		Taking firearm from law	
				enforcement officer.	
	775.21(10)	3rd		Sexual predators; failure to	
				register; failure to renew	
				driver's license or	
				identification card.	
	784.021(1)(a)	3rd		Aggravated assault; deadly weapon	
				without intent to kill.	
	784.021(1)(b)	3rd		Aggravated assault; intent to	
				commit felony.	
	784.041	3rd		Felony battery.	
	784.048(3)	3rd		Aggravated stalking; credible	
				threat.	
	784.048(5)	3rd		Aggravated stalking of person	
				under 16.	
	784.07(2)(c)	2nd		Aggravated assault on law	
				enforcement officer.	
	784.08(2)(b)	2nd		Aggravated assault on a person 65	
				years of age or older.	
	784.081(2)	2nd		Aggravated assault on specified	
				official or employee.	

1	784.082(2)	2nd	Aggravated assault by detained
2			person on visitor or other
3			detainee.
4	784.083(2)	2nd	Aggravated assault on code
5			inspector.
6	787.02(2)	3rd	False imprisonment; restraining
7			with purpose other than those in
8			s. 787.01.
9	790.115(2)(d)	2nd	Discharging firearm or weapon on
10			school property.
11	790.161(2)	2nd	Make, possess, or throw
12			destructive device with intent to
13			do bodily harm or damage
14			property.
15	790.164(1)	2nd	False report of deadly explosive
16			or act of arson or violence to
17			state property.
18	790.19	2nd	Shooting or throwing deadly
19			missiles into dwellings, vessels,
20			or vehicles.
21	794.011(8)(a)	3rd	Solicitation of minor to
22			participate in sexual activity by
23			custodial adult.
24	794.05(1)	2nd	Unlawful sexual activity with
25			specified minor.
26	800.04(5)(d)	3rd	Lewd or lascivious molestation;
27			victim 12 years of age or older
28			but less than 16 years; offender
29			less than 18 years.
30			
31			

1	800.04(6)(b)	2nd	Lewd or lascivious conduct;
2			offender 18 years of age or
3			older.
4	806.031(2)	2nd	Arson resulting in great bodily
5			harm to firefighter or any other
6			person.
7	810.02(3)(c)	2nd	Burglary of occupied structure;
8			unarmed; no assault or battery.
9	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
10			but less than \$100,000, <u>or stolen</u>
11			<u>cargo valued at less than</u>
12			<u>\$50,000, grand theft in 2nd</u>
13			degree.
14	812.13(2)(c)	2nd	Robbery, no firearm or other
15			weapon (strong-arm robbery).
16	817.034(4)(a)1.	1st	Communications fraud, value
17			greater than \$50,000.
18	817.4821(5)	2nd	Possess cloning paraphernalia
19			with intent to create cloned
20			cellular telephones.
21	825.102(1)	3rd	Abuse of an elderly person or
22			disabled adult.
23	825.102(3)(c)	3rd	Neglect of an elderly person or
24			disabled adult.
25	825.1025(3)	3rd	Lewd or lascivious molestation of
26			an elderly person or disabled
27			adult.
28	825.103(2)(c)	3rd	Exploiting an elderly person or
29			disabled adult and property is
30			valued at less than \$20,000.
31	827.03(1)	3rd	Abuse of a child.

1	827.03(3)(c)	3rd	Neglect of a child.
2	827.071(2)&(3)	2nd	Use or induce a child in a sexual
3			performance, or promote or direct
4			such performance.
5	836.05	2nd	Threats; extortion.
6	836.10	2nd	Written threats to kill or do
7			bodily injury.
8	843.12	3rd	Aids or assists person to escape.
9	847.0135(3)	3rd	Solicitation of a child, via a
10			computer service, to commit an
11			unlawful sex act.
12	914.23	2nd	Retaliation against a witness,
13			victim, or informant, with bodily
14			injury.
15	943.0435(9)	3rd	Sex offenders; failure to comply
16			with reporting requirements.
17	944.35(3)(a)2.	3rd	Committing malicious battery upon
18			or inflicting cruel or inhuman
19			treatment on an inmate or
20			offender on community
21			supervision, resulting in great
22			bodily harm.
23	944.40	2nd	Escapes.
24	944.46	3rd	Harboring, concealing, aiding
25			escaped prisoners.
26	944.47(1)(a)5.	2nd	Introduction of contraband
27			(firearm, weapon, or explosive)
28			into correctional facility.
29	951.22(1)	3rd	Intoxicating drug, firearm, or
30			weapon introduced into county
31			facility.

1			(g) LEVEL 7
2	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
3			injury.
4	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
5			bodily injury.
6	402.319(2)	2nd	Misrepresentation and negligence
7			or intentional act resulting in
8			great bodily harm, permanent
9			disfiguration, permanent
10			disability, or death.
11	409.920(2)	3rd	Medicaid provider fraud.
12	456.065(2)	3rd	Practicing a health care
13			profession without a license.
14	456.065(2)	2nd	Practicing a health care
15			profession without a license
16			which results in serious bodily
17			injury.
18	458.327(1)	3rd	Practicing medicine without a
19			license.
20	459.013(1)	3rd	Practicing osteopathic medicine
21			without a license.
22	460.411(1)	3rd	Practicing chiropractic medicine
23			without a license.
24	461.012(1)	3rd	Practicing podiatric medicine
25			without a license.
26	462.17	3rd	Practicing naturopathy without a
27			license.
28	463.015(1)	3rd	Practicing optometry without a
29			license.
30	464.016(1)	3rd	Practicing nursing without a
31			license.

1	465.015(2)	3rd	Practicing pharmacy without a
2			license.
3	466.026(1)	3rd	Practicing dentistry or dental
4			hygiene without a license.
5	467.201	3rd	Practicing midwifery without a
6			license.
7	468.366	3rd	Delivering respiratory care
8			services without a license.
9	483.828(1)	3rd	Practicing as clinical laboratory
10			personnel without a license.
11	483.901(9)	3rd	Practicing medical physics
12			without a license.
13	484.053	3rd	Dispensing hearing aids without a
14			license.
15	494.0018(2)	1st	Conviction of any violation of
16			ss. 494.001-494.0077 in which the
17			total money and property
18			unlawfully obtained exceeded
19			\$50,000 and there were five or
20			more victims.
21	560.123(8)(b)1.	3rd	Failure to report currency or
22			payment instruments exceeding
23			\$300 but less than \$20,000 by
24			money transmitter.
25	560.125(5)(a)	3rd	Money transmitter business by
26			unauthorized person, currency or
27			payment instruments exceeding
28			\$300 but less than \$20,000.
29			
30			
31			

1	655.50(10)(b)1.	3rd	Failure to report financial
2			transactions exceeding \$300 but
3			less than \$20,000 by financial
4			institution.
5	782.051(3)	2nd	Attempted felony murder of a
6			person by a person other than the
7			perpetrator or the perpetrator of
8			an attempted felony.
9	782.07(1)	2nd	Killing of a human being by the
10			act, procurement, or culpable
11			negligence of another
12			(manslaughter).
13	782.071	2nd	Killing of human being or viable
14			fetus by the operation of a motor
15			vehicle in a reckless manner
16			(vehicular homicide).
17	782.072	2nd	Killing of a human being by the
18			operation of a vessel in a
19			reckless manner (vessel
20			homicide).
21	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
22			causing great bodily harm or
23			disfigurement.
24	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
25			weapon.
26	784.045(1)(b)	2nd	Aggravated battery; perpetrator
27			aware victim pregnant.
28	784.048(4)	3rd	Aggravated stalking; violation of
29			injunction or court order.
30	784.07(2)(d)	1st	Aggravated battery on law
31			enforcement officer.

1	784.08(2)(a)	1st	Aggravated battery on a person 65
2			years of age or older.
3	784.081(1)	1st	Aggravated battery on specified
4			official or employee.
5	784.082(1)	1st	Aggravated battery by detained
6			person on visitor or other
7			detainee.
8	784.083(1)	1st	Aggravated battery on code
9			inspector.
10	790.07(4)	1st	Specified weapons violation
11			subsequent to previous conviction
12			of s. 790.07(1) or (2).
13	790.16(1)	1st	Discharge of a machine gun under
14			specified circumstances.
15	790.166(3)	2nd	Possessing, selling, using, or
16			attempting to use a hoax weapon
17			of mass destruction.
18	796.03	2nd	Procuring any person under 16
19			years for prostitution.
20	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
21			victim less than 12 years of age;
22			offender less than 18 years.
23	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
24			victim 12 years of age or older
25			but less than 16 years; offender
26			18 years or older.
27	806.01(2)	2nd	Maliciously damage structure by
28			fire or explosive.
29	810.02(3)(a)	2nd	Burglary of occupied dwelling;
30			unarmed; no assault or battery.
31			

1	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
2			unarmed; no assault or battery.
3	810.02(3)(d)	2nd	Burglary of occupied conveyance;
4			unarmed; no assault or battery.
5	812.014(2)(a)	1st	Property stolen, valued at
6			\$100,000 or more <u>or cargo stolen,</u>
7			<u>valued at \$50,000 or more;</u>
8			property stolen while causing
9			other property damage; 1st degree
10			grand theft.
11	812.019(2)	1st	Stolen property; initiates,
12			organizes, plans, etc., the theft
13			of property and traffics in
14			stolen property.
15	812.131(2)(a)	2nd	Robbery by sudden snatching.
16	812.133(2)(b)	1st	Carjacking; no firearm, deadly
17			weapon, or other weapon.
18	825.102(3)(b)	2nd	Neglecting an elderly person or
19			disabled adult causing great
20			bodily harm, disability, or
21			disfigurement.
22	825.1025(2)	2nd	Lewd or lascivious battery upon
23			an elderly person or disabled
24			adult.
25	825.103(2)(b)	2nd	Exploiting an elderly person or
26			disabled adult and property is
27			valued at \$20,000 or more, but
28			less than \$100,000.
29	827.03(3)(b)	2nd	Neglect of a child causing great
30			bodily harm, disability, or
31			disfigurement.

1	827.04(3)	3rd	Impregnation of a child under 16
2			years of age by person 21 years
3			of age or older.
4	837.05(2)	3rd	Giving false information about
5			alleged capital felony to a law
6			enforcement officer.
7	872.06	2nd	Abuse of a dead human body.
8	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
9			cocaine (or other drug prohibited
10			under s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4.) within 1,000 feet of a
13			child care facility or school.
14	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
15			cocaine or other drug prohibited
16			under s. 893.03(1)(a), (1)(b),
17			(1)(d), (2)(a), (2)(b), or
18			(2)(c)4., within 1,000 feet of
19			property used for religious
20			services or a specified business
21			site.
22	893.13(4)(a)	1st	Deliver to minor cocaine (or
23			other s. 893.03(1)(a), (1)(b),
24			(1)(d), (2)(a), (2)(b), or
25			(2)(c)4. drugs).
26	893.135(1)(a)1.	1st	Trafficking in cannabis, more
27			than 50 lbs., less than 2,000
28			lbs.
29	893.135		
30	(1)(b)1.a.	1st	Trafficking in cocaine, more than
31			28 grams, less than 200 grams.

1	893.135		
2	(1)(c)1.a.	1st	Trafficking in illegal drugs,
3			more than 4 grams, less than 14
4			grams.
5	893.135		
6	(1)(d)1.	1st	Trafficking in phencyclidine,
7			more than 28 grams, less than 200
8			grams.
9	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
10			than 200 grams, less than 5
11			kilograms.
12	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
13			than 14 grams, less than 28
14			grams.
15	893.135		
16	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
17			grams or more, less than 14
18			grams.
19	893.135		
20	(1)(h)1.a.	1st	Trafficking in
21			gamma-hydroxybutyric acid (GHB),
22			1 kilogram or more, less than 5
23			kilograms.
24	893.135		
25	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
26			kilogram or more, less than 5
27			kilograms.
28	893.135		
29	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
30			10 grams or more, less than 200
31			grams.

1 896.101(5)(a) 3rd Money laundering, financial
2 transactions exceeding \$300 but
3 less than \$20,000.
4 896.104(4)(a)1. 3rd Structuring transactions to evade
5 reporting or registration
6 requirements, financial
7 transactions exceeding \$300 but
8 less than \$20,000.

9 Section 5. For the purposes of incorporating the
10 amendment to s. 812.014, Florida Statutes, in references
11 thereto, the sections or subdivisions of Florida Statutes set
12 forth below are reenacted to read:

13 538.23 Violations and penalties.--

14 (2) A secondary metals recycler is presumed to know
15 upon receipt of stolen regulated metals property in a purchase
16 transaction that the regulated metals property has been stolen
17 from another if the secondary metals recycler knowingly and
18 intentionally fails to maintain the information required in s.
19 538.19 and shall, upon conviction of a violation of s.
20 812.015, be punished as provided in s. 812.014(2) or (3).

21 Section 6. This act shall take effect October 1, 2001.
22

23 *****

24 HOUSE SUMMARY

25
26 Makes theft of cargo valued at \$50,000 or more first
27 degree grand theft, a first degree felony, and theft of
28 cargo valued at less than \$50,000 second degree grand
29 theft, a second degree felony. Specifies a minimum
30 mandatory imprisonment sentence of 3 years for second or
31 subsequent convictions.