

HOUSE BILL No. 2697

By Committee on Judiciary

Requested by Steve Kearney on behalf of Johnson County District Attorney Steve Howe

2-4

AN ACT concerning crimes, punishment and criminal procedure; relating to crimes involving property; modifying the crime of unlawful acts involving theft detection shielding devices to include possessing, with the intent to commit theft, a computer program, application, software or other device adapted, designed or commonly used to operate a lock or locks on or start a motor vehicle without an ignition key or key fob, or to copy, store information relating to, or interfere with those functions and providing for exceptions; amending K.S.A. 21-5805 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 21-5805 is hereby amended to read as follows: 21-5805. (a) It shall be unlawful to:

~~(a)~~(1) Manufacture or distribute in any way a laminated or coated bag or device particular to and intentionally marketed for shielding and intended to shield merchandise from detection by electronic or magnetic theft alarm sensor;

~~(b)~~(2) possess any laminated or coated bag or device particular to and designed for shielding and intended to shield merchandise from detection by an electronic or magnetic theft alarm sensor, with the intent to commit theft;

~~(c)~~(3) possess any tool or device designed to allow the removal of any theft detection device from any merchandise with the intent to use such tool to remove any theft detection device from any merchandise without the permission of the merchant or person owning or holding such merchandise; ~~or~~

~~(d)~~(4) possess one or more fraudulent retail sales receipts or universal product code labels or possessing the device which manufactures fraudulent retail sales receipts or universal product code labels with the intent to cheat or defraud a retailer. A person having possession, custody or control of 15 or more such receipts or labels or such device shall be presumed to possess such items with the intent to cheat or defraud a retailer; *or*

(5) possess, with the intent to commit theft, a computer program,

1 application, software or other device adapted, designed or commonly used
2 to:

3 (A) Operate a lock on or start a motor vehicle without an ignition key
4 or fob;

5 (B) copy and store information relating to operating a lock on or
6 starting a motor vehicle; or

7 (C) interfere with the ability to operate a lock on or start a motor
8 vehicle.

9 ~~(e)~~(b) Violation of this section is a severity level 9, nonperson felony.

10 (c) The provisions of this section shall not apply to:

11 (1) Any person who is a dealer of new or used motor vehicles;

12 (2) a car rental company or agent;

13 (3) a locksmith;

14 (4) an employee of a towing service;

15 (5) an employee of an automotive repair business;

16 (6) a person who is lawfully repossessing a motor vehicle;

17 (7) a law enforcement officer when such officer is acting within the
18 scope of such officer's official duties or employment; or

19 (8) a business that has a key-cutting device located and used on the
20 premises for the purpose of making replacement keys for the owner or
21 person who has lawful possession of a motor vehicle.

22 Sec. 2. K.S.A. 21-5805 is hereby repealed.

23 Sec. 3. This act shall take effect and be in force from and after its
24 publication in the statute book.