

943.20 CRIMES—PROPERTY

A person may be convicted under s. 943.20 (1) (a) for concealing property and be separately convicted for transferring that property. *State v. Tappa*, 127 Wis. 2d 155, 378 N.W.2d 883 (1985).

A violation of sub. (1) (d) does not require proof that the accused personally received property. *State v. O’Neil*, 141 Wis. 2d 535, 416 N.W.2d 77 (Ct. App. 1987).

“Obtains title to property,” as used in sub. (1) (d), includes obtaining property under a lease by fraudulent misrepresentation. *State v. Meado*, 163 Wis. 2d 789, 472 N.W.2d 567 (Ct. App. 1991).

The federal tax on a fraudulently obtained airline ticket was properly included in its value for determining whether the offense was a felony under sub. (3). *State v. McNearney*, 175 Wis. 2d 485, N.W.2d (Ct. App. 1993).

The definition of “bailee” under s. 407.102 (1) is not applicable to sub. (1) (b); definitions of “bailment” and are “bailee” discussed. *State v. Kuhn*, 178 Wis. 2d 428, 504 N.W.2d 405 (Ct. App. 1993).

When the factual basis for a plea to felony theft does not establish the value of the property taken, the conviction must be set aside and replaced with a misdemeanor conviction. *State v. Harrington*, 181 Wis. 2d 985, 512 N.W.2d 261 (Ct. App. 1994).

The words “uses,” “transfers,” “conceals,” and “retains possession” in sub. (1) (b) are not synonyms describing the crime of theft but describe separate offenses. A jury must be instructed that there must be unanimous agreement on the manner in which the statute was violated. *State v. Seymour*, 183 Wis. 2d 682, 515 N.W.2d 874 (1994).

Theft from the person includes theft of a purse from the handle of an occupied wheelchair. *State v. Hughes*, 218 Wis. 2d 538, 582 N.W.2d 49 (Ct. App. 1998).

When the victim had pushed her purse against a car door with her leg and the defendant’s action caused her to fall back, dislodging the purse, his act of taking it constituted taking property from the victim’s person under sub. (3) (d) 2. *State v. Graham*, 2000 WI App 138, 237 Wis. 2d 620, 614 N.W.2d 504.

Multiple convictions for the theft of an equal number of firearms arising from one incident did not violate the protection against double jeopardy. *State v. Trawitzki*, 2001 WI 77, 244 Wis. 2d 523, 628 N.W.2d 801.

A landlord who failed to return or account for a security deposit ordinarily could not be prosecuted under this section. 60 Atty. Gen. 1.

State court rulings that unauthorized control was sufficient to support a conviction under sub. (1) (d) were not an unlawful broadening of the offense so as to deprive the defendant of notice and the opportunity to defend. *Hawkins v. Mathews*, 495 F. Supp. 323 (1980).

943.201 Misappropriation of personal identifying information or personal identification documents.

(1) In this section:

(a) “Personal identification document” means a birth certificate or a financial transaction card, as defined in s. 943.41 (1) (em).

(b) “Personal identifying information” means any of the following information:

1. An individual’s name.
2. An individual’s address.
3. An individual’s telephone number.
4. The unique identifying driver number assigned to the individual by the department of transportation under s. 343.17 (3) (a) 4.
5. An individual’s social security number.
6. An individual’s employer or place of employment.
7. An identification number assigned to an individual by his or her employer.
8. The maiden name of an individual’s mother.
9. The identifying number of a depository account, as defined in s. 815.18 (2) (e), of an individual.

(2) Whoever intentionally uses or attempts to use any personal identifying information or personal identification document of an individual to obtain credit, money, goods, services or anything else of value without the authorization or consent of the individual and by representing that he or she is the individual or is acting with the authorization or consent of the individual is guilty of a Class H felony.

NOTE: Sub. (2) is shown as amended eff. 2–1–03 by 2001 Wis. Act 109. Prior to 2–1–03 it reads:

(2) Whoever intentionally uses or attempts to use any personal identifying information or personal identification document of an individual to obtain credit, money, goods, services or anything else of value without the authorization or consent of the individual and by representing that he or she is the individual or is acting with the authorization or consent of the individual is guilty of a Class D felony.

History: 1997 a. 101; 2001 a. 109.

A violation of sub. (2) is a continuing offense. *State v. Ramirez*, 2001 WI App 158, 246 Wis. 2d 802, 633 N.W.2d 656.

943.205 Theft of trade secrets. (1) Whoever with intent to deprive or withhold from the owner thereof the control of a trade secret, or with intent to appropriate a trade secret to his or her own

use or the use of another not the owner, and without authority of the owner, does any of the following may be penalized as provided in sub. (3):

(a) Takes, uses, transfers, conceals, exhibits or retains possession of property of the owner representing a trade secret.

(b) Makes or causes to be made a copy of property of the owner representing a trade secret.

(c) Obtains title to property representing a trade secret or a copy of such property by intentionally deceiving the owner with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. “False representation” includes a promise made with intent not to perform if it is a part of a false and fraudulent scheme.

(2) In this section:

(a) “Copy” means any facsimile, replica, photograph or other reproduction of any property and any notation, drawing or sketch made of or from any property.

(b) “Owner” includes a co-owner of the person charged and a partnership of which the person charged is a member, unless the person charged and the victim are husband and wife.

(c) “Property” includes without limitation because of enumeration any object, material, device, substance, writing, record, recording, drawing, sample, specimen, prototype, model, photograph, micro-organism, blueprint or map, or any copy thereof.

(d) “Representing” means disclosing, embodying, describing, depicting, containing, constituting, reflecting or recording.

(e) “Trade secret” has the meaning specified in s. 134.90 (1) (c).

(3) Anyone who violates this section is guilty of a Class I felony.

NOTE: Sub. (3) is shown as amended eff. 2–1–03 by 2001 Wis. Act 109. Prior to 2–1–03 it reads:

(3) Anyone who violates this section is guilty of a Class E felony.

(4) In a prosecution for a violation of this section it shall be no defense that the person charged returned or intended to return the property involved or that the person charged destroyed all copies made.

(5) This section does not prevent anyone from using skills and knowledge of a general nature gained while employed by the owner of a trade secret.

History: 1977 c. 173; 1983 a. 189; 1985 a. 236; 1993 a. 213, 486; 1997 a. 254; 2001 a. 109.

An insurance agency’s customer list was not a trade secret. *Corroon & Black v. Hosch*, 109 Wis. 2d 290, 325 N.W.2d 883 (1982).

Pricing policies, cost markups, and the amount of a company’s bid for particular project were not trade secrets. *Wisconsin Electric Power Co. v. PSC*, 110 Wis. 2d 530, 329 N.W.2d 178 (1983).

943.206 Definitions. In this section and ss. 943.207 to 943.209:

(1) “Manufacturer” means a person who transfers sounds to a recording.

(2) “Owner” means the person who owns sounds in or on a recording from which the transferred recorded sounds are directly or indirectly derived.

(3) “Performance” means a recital, rendering or playing of a series of words or other sounds, either alone or in combination with images or physical activity.

(4) “Performance owner” means the performer or performers or the person to whom the performer or performers have transferred, through a contract, the right to sell recordings of a performance.

(5) “Recording” means a medium on or in which sounds or images or both are stored.

History: 1999 a. 51, 186.

943.207 Transfer of recorded sounds for unlawful use.

(1) Whoever does any of the following may be penalized as provided in sub. (3m):