

SENATE BILL 926

By Roberts

AN ACT to amend Tennessee Code Annotated, Section 39-14-408, relative to the offense of vandalism.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-14-408, is amended by deleting the section in its entirety and substituting instead the following:

(a) For purposes of this section:

(1) "Damage" includes, but is not limited to:

(A) Destroying, polluting, or contaminating property;

(B) Tampering with property and causing pecuniary loss or substantial inconvenience to the owner or a third person;

(C) Intentionally spilling, pouring, or otherwise administering chemicals or other toxic substances to or on the merchandise with the intent to:

(i) Render the merchandise unusable or unsellable; or

(ii) Alter the merchandise from its original or intended form; or

(D) Destroying, harming, or decreasing the value of merchandise offered for sale by a retail merchant in any other manner;

(2) "Merchandise" includes any goods, chattels, foodstuffs, or wares of any type of description, regardless of the value;

(3) "Polluting" means the contamination by manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of the atmosphere, water, or soil to the material injury of the right of another. Pollutants

include dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste;

(4) "Retail merchant" means any person primarily engaged in the business of making retail sales. For purposes of this subdivision (a)(4), "primarily" means that at least fifty percent (50%) of the taxable gross sales of the business are retail sales; and

(5) "Retail sale" or "sale at retail" means any sale other than a wholesale sale.

(b) A person commits the offense of vandalism who knowingly:

(1) Causes damage to or the destruction of any real or personal property of another or of the state, the United States, any county, city, or town knowing that the person does not have the owner's effective consent;

(2) Solicits, directs, aids, or attempts to aid another to commit vandalism of a retail merchant, while acting with the intent to promote or assist the commission of vandalism of a retail merchant, or to benefit in the proceeds or results of the offense;

(3) Damages merchandise offered for retail sale by a retail merchant; or

(4) Facilitates commission of vandalism of a retail merchant or acts as an accessory after the fact to vandalism of a retail merchant.

(c)

(1) A person violating subdivision (b)(1) or (b)(3) is a principal under § 39-11-401 and shall be punished as for theft under § 39-14-105, after determining value under § 39-11-106.

(2) A person violating subdivision (b)(2), is a principal under § 39-11-402 and shall be punished as for theft under § 39-14-105, after determining value under § 39-11-106.

(3) A person violating subdivision (b)(4) by facilitating a felony act of vandalism committed under subdivision (b)(1) or (b)(3), shall be punished one (1) classification lower than the value of the act of vandalism committed under subdivision (b)(1) or (b)(3).

(4) A person violating subdivision (b)(4) as an accessory after the fact, under § 39-11-411, to a felony act of vandalism committed under subdivision (b)(1) or (b)(3) commits a Class E felony.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.