



2023-2024 General Assembly

**SENATE BILL 409:
Various Changes to Criminal and Civil Laws,
Sec. 1-3:
Breaking or Entering Into or Breaking Out of
Railroad Cars, Motor Vehicles, Trailers,
Aircraft, Boats, or Other Watercraft;
Aggregation of Financial Crimes; Hearsay
Exceptions; Availability of Declarant Immaterial**

Committee:		Date:	December 5, 2023
Introduced by:		Prepared by:	Debbie Griffiths Staff Attorney
Analysis of:	Sec. 1-3 of S.L. 2023-151		

OVERVIEW: *Section 1 of S.L. 2023-151 modifies the criminal law for breaking and entering a vehicle of any kind to increase the punishment depending on the value of the property taken from the vehicle and provides concurrent jurisdiction to the court of each county where each incident occurred. This section became effective December 1, 2023, and applies to offenses committed on or after that date.*

Section 2 of S.L. 2023-151 permits the aggregation of multiple convictions of financial crimes for sentencing and provides concurrent jurisdiction to the court of each county where one of the financial crimes occurred. This section becomes effective March 1, 2024, and applies to offenses committed on or after that date.

Section 3 of S.L. 2023-151 expands the business records exception to the rule against hearsay by allowing a custodian or witness to certify under penalty of perjury that a document was kept in the regular course of business. This section becomes effective March 1, 2024.

CURRENT LAW AND BILL ANALYSIS:

Section 1

G.S. 14-56(a) provides that breaking or entering into a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, with the intent to commit a felony or larceny, is a Class I felony. G.S. 14-56(a1) provides that if the vehicle broken into is owned by law enforcement, the National Guard, or the Armed Forces of the United States, and the offender knows that the vehicle belongs to one of these parties, then the violation will be punished as a Class H felony.

G.S. 14-86.1 provides that any conveyances used in the commission of certain crimes are subject to seizure and forfeiture by law enforcement.

Section 1 of S.L. 2023-151 modifies G.S. 14-56, to make the punishment for a violation of this law increase with the value of the property taken from the vehicle. The new punishments for breaking or entering a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, with the intent to commit a felony or larceny is the following:

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Legislative Analysis
Division
919-733-2578

Senate Bill 409

Page 2

- Class H felony →
 - If the value of goods stolen exceeds \$1,500, but is not more than \$20,000 or
 - If the vehicle is owned by law enforcement, the National Guard, or the Armed Forces of the United States, the offender knows or should have reasonably known that the vehicle belongs to one of these parties, and anything of value up to a value not more than \$20,000.
- Class G felony → if the value of goods stolen exceeds \$20,000 but is not more than \$50,000.
- Class F felony → if the value of goods stolen exceeds \$50,000 but is not more than \$100,000.
- Class C felony → if the value of good stolen exceeds \$100,000.
- Class I felony → any other violation of G.S. 14-56 that is not covered by the above (for example, if the value of the goods stolen is \$1,500 or less).

The values of stolen property can be aggregated from multiple violations that occur within a 90-day period, and violations from multiple counties can be aggregated together and be prosecuted in any jurisdiction where at least one violation occurred.

Additionally, this Section of S.L. 2023-151 modifies G.S. 14-86.1, to allow the seizure and forfeiture of any conveyance that is used in the commission of the crime of breaking and entering vehicles as described above.

This Section of S.L. 2023-151 became effective December 1, 2023, and applies to offenses committed on or after that date.

Section 2

The crime of embezzlement generally occurs when an agent, consignee, clerk, bailee or servant embezzles, misapplies, or converts money, goods, or other chattels from an employer or while in a position of trust.

- Embezzlement of property or funds valued at more than \$100,000 or more is a Class C felony. Class C felony punishment ranges from a minimum of 44 months in prison to a maximum of 231 months in prison, depending on the facts and prior record level.
 - Obtaining property by false pretenses with a value of over \$100,000 is also a Class C felony.
- Embezzlement of state property by public officers and employees, of funds by public officers and trustees, and of taxes by officers valued at less than \$100,000 is a Class F felony. Class F felony punishment ranges from a minimum of probation to a maximum of 59 months in prison, depending on the facts and prior record level.
 - Exploitation of an older adult or disabled adult resulting in a gain of funds, assets or property valued at \$100,000 or more is also a Class F felony.
- The remaining embezzlement offenses of funds or property valued at less than \$100,000 are each a Class H felony. Class H felony punishment ranges from a minimum of probation to a maximum of 39 months in prison, depending on the facts and prior record level.

Section 2 of S.L. 2023-151 permits financial crimes of "a common scheme or plan" to be aggregated at sentencing if they were either committed against more than one victim or in more than one county.

Financial crimes are defined as acts of embezzlement, acts of false pretenses, or acts of exploitation of an older adult.

Senate Bill 409

Page 3

For example, if it is proven that a defendant stole \$50,000 on two separate occasions as part of a common scheme, the defendant could be convicted of a Class C felony with a maximum of 231 months in prison, as opposed to two convictions of Class H felonies with a maximum of two consecutive sentences of 39 months in prison each.

This Section of S.L. 2023-151 becomes effective March 1, 2024, and applies to offenses committed on or after that date.

Section 3

Section 3 of S.L. 2023-151 expands the business records exception to the rule against hearsay by allowing a custodian or witness to certify under penalty of perjury that a document was kept in the regular course of business.

This Section of S.L. 2023-151 becomes effective March 1, 2024.

**Susan Sitze, Alex Ramirez, Robert Ryan, Brian Gwyn, Nicholas Giddings, and Billy Godwin, Staff Attorneys, substantially contributed to this summary.*