

DRIVERS SKIMMING A FEW LITERS OF FUEL EACH TRIP: A MINOR MATTER OR EMBEZZLEMENT?

APPELLATE JUDGMENT 278/2025/HS-PT

Basis: Judgment 278/2025/HS-PT dated 10/9/2025 · 2015 Criminal Code

Lessons for businesses, FDI enterprises and employees

THE CASE IN 4 NUMBERS

A few liters each time, adding up to VND 441 million and 13 convictions

3–4 liters

of fuel appropriated
each time, worth tens of
thousands of dong

VND 150,000

up to VND 500,000 per
person per month,
shared in cash

VND 441.55M

total amount
appropriated by the 13
persons over nearly 10
years

2–3 years

imprisonment imposed
on appeal for the 11
appellants; no one
received a suspended
sentence

The offenders were 12 drivers of a 100% Korean-owned company in Thai Nguyen and 1 employee of a gas station outside the company. **All were convicted of "Embezzlement of property".**

BASIS: Judgment 278/2025/HS-PT dated 10/9/2025 of the Appellate Court of the Supreme People's Court in Hanoi (Case content; Decision)

THE STORY

12 drivers, 1 gas station employee and nearly 10 years of "skimming" fuel

Company G (100% Korean-owned, electronic components manufacturer) operates 8 cars and has labor contracts with 12 drivers. The company **issued fuel on the drivers' requests, with no fuel quota and no fixed vehicle per driver.**

PHASE 1 (2014–2020): ODOMETER FRAUD

Driver K learned to install a "bypass" device that falsely inflated the odometer reading, then told the other drivers so they could do the same.

Mileage reported for 4 fixed routes was about 16–27 km higher than actual; the surplus fuel was **siphoned off and sold by the roadside.**

PHASE 2 (2021–2023): FALSE RECORDS

General Affairs staff were often absent when fuel was dispensed. The drivers colluded with H7, a gas station employee, who **falsely added liters to the company's ledger.**

The company paid at month-end as usual; H7 resold this fuel and earned VND 3,000 per liter.

Early January 2024: the company audited fuel use; the drivers stopped falsifying, removed the devices and reported true mileage.

BASIS: Judgment 278/2025/HS-PT, Case content section

TRIAL RESULTS

Appeal cut 6 months, but no one received a suspended sentence

Defendant	First instance (20/2025/HS-ST)	Appeal (278/2025/HS-PT)
S3 (bad personal record)	42 months' imprisonment	36 months' imprisonment
T4, V1, L4, L, S	36 months' imprisonment	30 months' imprisonment
V, D, H1, T8, H7 (gas station employee)	30 months' imprisonment	24 months' imprisonment

Defendants K (the instigator, main role) and H8 did not appeal; the first-instance judgment against these two is final.

PROCURACY PROPOSED

Uphold the first-instance sentences because the defendants had **no special mitigating circumstances** at the appellate level.

APPELLATE COURT DECIDED

Partially accept the appeals: **reduce each sentence by 6 months**; the requests for suspended sentences are rejected.

BASIS: Judgment 278/2025/HS-PT, Findings [3], [4] and Decision items 1, 2

ANALYSIS 1

Can a driver at a private company commit embezzlement?

Yes. Embezzlement is not limited to officials and civil servants. The Criminal Code extends to non-state enterprises and defines a "person with a position" very broadly:

NON-STATE ENTERPRISES

"A person with a position or authority in a non-state enterprise or organization who embezzles property shall be handled under this Article."

(Article 353.6 Criminal Code)

"PERSON WITH A POSITION" INCLUDES THOSE ENGAGED BY CONTRACT

A person **appointed, elected, or engaged by contract** or by other means, whether paid or unpaid, who is assigned a certain duty and has certain powers in performing that duty.

(Article 352.2 Criminal Code)

HOW THE COURT APPLIED IT HERE

The drivers signed labor contracts and were assigned to operate vehicles, receive fuel and manage the vehicles. The Court determined that they **abused the duties and responsibilities assigned to them** to appropriate fuel supplied by the company, i.e. property they were responsible for managing.

BASIS: Article 352.2, Article 353.6 of the 2015 Criminal Code (Consolidated Doc. 135/VBHN-VPQH); Judgment 278/2025/HS-PT, Finding [2]

ANALYSIS 2

Why was a non-employee gas station worker also convicted?

BECAUSE HE WAS AN ACCOMPLICE

Complicity is where **two or more persons intentionally commit the same offense together**.

Accomplices include the organizer, the perpetrator, the instigator and **the aider**: a person who creates mental or material conditions for committing the offense.

(Article 17.1, 17.3 Criminal Code)

HOW THE COURT APPLIED IT HERE

From 2021, the drivers **received help from H7**, an employee of the gas station supplying fuel to the company, to inflate the liters and appropriate the company's payments.

H7 received VND 36 million and was convicted of the same offense, "Embezzlement of property".

Notably: H7 was not an employee of Company G but was still convicted of the same offense as the drivers.

The Court assessed each person's role: H7, H1, T8 and D acted in the later phase, so they had **a lesser role** and received the lowest sentence (24 months).

BASIS: Article 17, Article 58 of the 2015 Criminal Code; Judgment 278/2025/HS-PT, Findings [2], [4]

ANALYSIS 3

Each person gained only VND 20–38 million; why a bracket of 7–15 years?

BRACKET 1: 02 TO 07 YEARS' IMPRISONMENT

Appropriating property worth **VND 2 million to under VND 100 million.**

(Article 353.1 Criminal Code)

If only each driver's own share (VND 20.5 to 38.85 million) is counted, the amount falls within this bracket.

BRACKET 2: 07 TO 15 YEARS' IMPRISONMENT

Appropriating property worth **VND 100 million to under VND 500 million.**

(Article 353.2.d Criminal Code)

The Court found that **the 13 defendants appropriated VND 441.55 million in total** and sentenced all within this bracket.

WHY ARE THE ACTUAL SENTENCES ONLY 24–36 MONTHS?

The defendants **voluntarily remedied the consequences, made sincere confessions and showed remorse** (Article 51.1.b, 51.1.s Criminal Code) and had other circumstances such as the victim's request for leniency (Article 51.2 Criminal Code).

With two or more mitigating circumstances under Article 51.1, the Court may impose a sentence **below the minimum of the bracket**, within the next lighter bracket (Article 54.1 Criminal Code): 24–36 months falls within bracket 1.

BASIS: Article 51, Article 54, Article 353 of the 2015 Criminal Code; Judgment 278/2025/HS-PT, Findings [2], [4]

ANALYSIS 4

Full repayment and the victim's request for leniency; why still prison?

THE LAW ALLOWS IT, BUT DOES NOT REQUIRE IT

For a prison sentence of **not more than 3 years**, considering personal background and mitigating circumstances, **if the Court finds that serving it is unnecessary**, it may grant a suspended sentence.

(Article 65.1 Criminal Code)

All 11 appellants received 36 months or less.

THE COURT FOUND SEPARATION STILL NECESSARY

The Court acknowledged full remediation, the victim's request for leniency and difficult circumstances, and therefore **reduced the sentences in part**.

But the Court held that **the defendants still had to be separated from society for a period** for individual education and general deterrence.

Lesson: remedying the consequences helps reduce the sentence; it is not a "ticket" to a suspended sentence.

A suspended sentence applies only when the Court "considers that it is not necessary to enforce the prison sentence". In this case, the Court still decided on separation to uphold the strictness of the law.

BASIS: Article 65.1 of the 2015 Criminal Code; Judgment 278/2025/HS-PT, Finding [4]

4 management gaps that let the violations last nearly 10 years

1. NO FUEL QUOTA

The company approved fuel issuance based on actual consumption and the drivers' requests, with no fuel consumption quota.

2. NO ACTUAL VERIFICATION

The company did not check the actual fuel usage of each vehicle against any standard.

3. NO PERMANENT VEHICLE ASSIGNMENT

Each vehicle was not permanently assigned to one driver, making it hard to assign responsibility to individuals.

4. ABSENT SUPERVISION

The procedure called for General Affairs staff to supervise refueling, but in practice they were often absent.

Consequence for prosecution: the expert examination could only measure fuel consumption at the time of inspection; the average consumption of each vehicle over nearly 10 years **has no basis for determination**. The amount appropriated was based mainly on statements and recorded as a minimum amount.

BASIS: Judgment 278/2025/HS-PT, Case content section and Expert Conclusion dated 26/4/2024

RECOMMENDATIONS

What should businesses do so they do not become the next "Company G"?

QUOTAS AND RECONCILIATION

Issue a fuel consumption quota for each vehicle; periodically reconcile liters issued against the trip log and the actual distance of the fixed routes.

VEHICLE ASSIGNMENT AND LIABILITY AGREEMENTS

Assign a permanent vehicle to each driver. Employees who consume materials beyond the quota must pay compensation under the labor rules or a liability agreement (Article 129.2 Labor Code).

CONTROL OF PAYMENTS

Do not let a single link confirm the liters; reconcile the supplier's documents with fuel slips signed by the recipient and the management department.

RULES AND DISCIPLINE

Theft or embezzlement at the workplace is grounds for dismissal (Article 125.1 Labor Code). State this clearly in the labor rules and communicate it to employees.

BASIS: Article 125.1, Article 129.2 of the 2019 Labor Code (Consolidated Doc. 18/VBHN-VPQH)

RECOMMENDATIONS

Employees should know: a few liters can mean prison

ENTRUSTED PROPERTY MEANS RESPONSIBILITY

A person working under a contract and assigned certain duties and powers may be a "person with a position" under Article 352.2 Criminal Code, even at a private company.

SMALL AMOUNTS ADD UP TO A LARGE AMOUNT

Each time was only 3–4 liters, but accumulated over many years and many people, the total of VND 441.55 million put the whole group in the 07–15 year bracket.

"EVERYONE DOES IT" IS NO EXCUSE

All 12 drivers and the outside accomplice were convicted. Those who joined later and gained less were still convicted of the same offense.

THE CONSEQUENCES GO BEYOND PRISON

Embezzlers may also be banned from holding positions for 01 to 05 years and fined VND 60 to 200 million (Article 353.5 Criminal Code); they may also be dismissed (Article 125.1 Labor Code).

This document provides general information and does not replace advice for any specific case.

BASIS: Article 352.2, Article 353 of the 2015 Criminal Code; Article 125.1 of the 2019 Labor Code; Judgment 278/2025/HS-PT

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Address

11th Floor, A&T Building, 171 Hai Ba Trung,
Xuan Hoa Ward, Ho Chi Minh City



Phone

+84 39 969 0012



Email

david@dedica-law.com



Website

www.dedica-law.com



Call us now or leave a message for a consultation.