

## **Part 4**

### **Theft**

#### **76-6-401 Definitions.**

As used in this part:

- (1) "Deception" occurs when a person intentionally:
  - (a) creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true and that is likely to affect the judgment of another in the transaction;
  - (b) fails to correct a false impression of law or fact that the actor previously created or confirmed by words or conduct that is likely to affect the judgment of another and that the actor does not now believe to be true;
  - (c) prevents another person from acquiring information likely to affect the person's judgment in the transaction;
  - (d) sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, regardless of whether the lien, security interest, claim, or impediment is valid or is a matter of official record; or
  - (e) promises performance that is likely to affect the judgment of another in the transaction, which performance the actor does not intend to perform or knows will not be performed, except that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.
- (2) "Livestock guardian dog" means the same as that term is defined in Section 76-6-111.
- (3) "Obtain" means, in relation to property, to bring about a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; in relation to labor or services, to secure performance thereof; and in relation to a trade secret, to make any facsimile, replica, photograph, or other reproduction.
- (4) "Obtain or exercise unauthorized control" means conduct originally defined or known as common-law larceny by trespassory taking, larceny by conversion, larceny by bailee, or embezzlement.
- (5) "Property" means anything of value, including real estate, tangible and intangible personal property, captured or domestic animals and birds, written instruments or other writings representing or embodying rights concerning real or personal property, labor, services, or otherwise containing anything of value to the owner, commodities of a public utility nature such as telecommunications, gas, electricity, steam, or water, and trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula, or invention which the owner intends to be available only to persons selected by the owner.
- (6) "Purpose to deprive" means to have the conscious object:
  - (a) to withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or of the use and benefit thereof, would be lost;
  - (b) to restore the property only upon payment of a reward or other compensation; or
  - (c) to dispose of the property under circumstances that make it unlikely that the owner will recover it.

Amended by Chapter 57, 2021 General Session

### **76-6-402 Presumptions and defenses.**

The following presumption shall be applicable to this part:

- (1) Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed prima facie evidence that the person in possession stole the property.
- (2) It is not a defense under this part that the actor:
  - (a) has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, unless the interest is a security interest for the repayment of a debt or obligation; or
  - (b) takes livestock, as defined in Section 76-3-203.16, from the owner because the livestock is sick, injured, or a liability to the owner.
- (3) It is a defense under this part that the actor:
  - (a) acted under an honest claim of right to the property or service involved;
  - (b) acted in the honest belief that the actor had the right to obtain or exercise control over the property or service in the manner the actor obtained or exercised control; or
  - (c) obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.
- (4) A livestock guardian dog is presumed to belong to an owner of the livestock with which the livestock guardian dog is living at the time of an alleged violation of this part.

Amended by Chapter 121, 2023 General Session

### **76-6-402.5 Defense regarding metal dealers.**

It is a defense against a charge of theft under this part and a defense against a civil claim for conversion if any dealer as defined in Section 76-6-1402 has acted in compliance with Title 76, Chapter 6, Part 14, Regulation of Metal Dealers.

Amended by Chapter 187, 2013 General Session

### **76-6-403 Theft -- Evidence to support accusation.**

Conduct denominated theft in this part constitutes a single offense embracing the separate offenses such as those heretofore known as larceny, larceny by trick, larceny by bailees, embezzlement, false pretense, extortion, blackmail, receiving stolen property. An accusation of theft may be supported by evidence that it was committed in any manner specified in this part, subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

Amended by Chapter 111, 2023 General Session

### **76-6-404 Theft -- Elements.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft if the actor obtains or exercises unauthorized control over another person's property with a purpose to deprive the person of the person's property.
- (3) A violation of Subsection (2) is:
  - (a) a second degree felony if the:
    - (i) value of the property is or exceeds \$5,000;
    - (ii) property stolen is a firearm or an operable motor vehicle; or

- (iii) property is stolen from the person of another;
- (b) a third degree felony if:
  - (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
  - (ii) the property is:
    - (A) a catalytic converter as defined under Section 76-6-1402; or
    - (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
  - (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
    - (A) any theft, any robbery, or any burglary with intent to commit theft;
    - (B) any offense under Part 5, Fraud; or
    - (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
  - (iv)
    - (A) the value of property is or exceeds \$500 but is less than \$1,500;
    - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
    - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
  - (v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
- (c) a class A misdemeanor if:
  - (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
  - (ii)
    - (A) the value of property is less than \$500;
    - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
    - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
  - (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

Amended by Chapter 111, 2023 General Session

Amended by Chapter 407, 2023 General Session, (Coordination Clause)

#### **76-6-404.5 Unauthorized possession of property.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits unauthorized possession of property if the actor obtains or exercises unauthorized control over another person's property, without the consent of the property's owner or legal custodian, and with the intent to temporarily appropriate, possess, or use the

property or to temporarily deprive the property's owner or legal custodian of possession of the property.

(3) A violation of Subsection (2) is:

(a) a third degree felony if:

- (i) the value of the property is or exceeds \$5,000;
- (ii) the property is a firearm or an operable motor vehicle; or
- (iii) the property is taken from the person of another;

(b) a class A misdemeanor if:

- (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- (ii) the property is:
  - (A) a catalytic converter as defined under Section 76-6-1402; or
  - (B) 25 pounds or more of a suspect metal item is defined under Section 76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
- (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
  - (A) any theft, any robbery, or any burglary with intent to commit theft;
  - (B) any offense under Part 5, Fraud; or
  - (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

(iv)

- (A) the value of property is or exceeds \$500 but is less than \$1,500;
- (B) the unauthorized possession of property occurs on a property where the offender has committed any theft within the past five years; and
- (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
- (v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class B misdemeanor if:

- (i) the value of the property is or exceeds \$500 but is less than \$1,500;
- (ii)
  - (A) the value of property is less than \$500;
  - (B) the unauthorized possession of property occurs on a property where the offender has committed any theft within the past five years; and
  - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
- (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class C misdemeanor if the value of the property is less than \$500 and the unauthorized possession of property is not an offense under Subsection (3)(c).

(4) Unauthorized possession of property is a lesser included offense of the offense of theft under Section 76-6-404.

- (5) The consent of the owner or legal custodian of the property to the property's control by the actor is not presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the property by any person.

Amended by Chapter 111, 2023 General Session

Amended by Chapter 407, 2023 General Session, (Coordination Clause)

**76-6-404.7 Theft of motor vehicle fuel.**

- (1)
- (a) As used in this section, "motor vehicle fuel" means any combustible gas, liquid, matter, or substance that is used in an internal combustion engine for the generation of power.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft of motor vehicle fuel if the actor:
- (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for retail sale when motor fuel has been dispensed into:
    - (i) the fuel tank of the motor vehicle; or
    - (ii) any other container that is then removed from the premises by means of the motor vehicle; and
  - (b) commits the act under Subsection (2)(a) with the intent to deprive the owner or operator of the premises of the motor vehicle fuel without making full payment for the fuel.
- (3) A violation of Subsection (2) is:
- (a) a second degree felony if the value of the motor vehicle fuel is or exceeds \$5,000;
  - (b) a third degree felony if:
    - (i) the value of the motor vehicle fuel is or exceeds \$1,500 but is less than \$5,000; or
    - (ii) the value of the motor vehicle fuel is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
      - (A) any theft, any robbery, or any burglary with intent to commit theft;
      - (B) any offense under Part 5, Fraud; or
      - (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);
- (iii)
- (A) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;
  - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
  - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
  - (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
- (c) a class A misdemeanor if:
- (i) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;
  - (ii)
    - (A) the value of the motor vehicle fuel is less than \$500;
    - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and

- (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
  - (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
  - (d) a class B misdemeanor if the value of the motor vehicle fuel is less than \$500 and the theft is not an offense under Subsection (3)(c).
- (4)
- (a) In addition to the penalties described in Subsection (3), the sentencing court may order the suspension of the driver license of an actor convicted of theft of motor vehicle fuel.
  - (b) The suspension described in Subsection (4)(a) may not be for more than 90 days as provided in Section 53-3-220.

Amended by Chapter 111, 2023 General Session

**76-6-405 Theft by deception.**

- (1)
- (a) As used in this section, "puffing" means an exaggerated commendation of wares or worth in a communication addressed to an individual, group, or the public.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) An actor commits theft by deception if the actor obtains or exercises control over property of another person:
    - (i) by deception; and
    - (ii) with a purpose to deprive the other person of property.
  - (b) The deception described in Subsection (2)(a)(i) and the deprivation described in Subsection (2)(a)(ii) may occur at separate times.
- (3) A violation of Subsection (2) is:
- (a) a second degree felony if the:
    - (i) value of the property is or exceeds \$5,000; or
    - (ii) property stolen is a firearm or an operable motor vehicle;
  - (b) a third degree felony if:
    - (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
    - (ii) the property:
      - (A) is a catalytic converter as defined under Section 76-6-1402; or
      - (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
    - (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
      - (A) any theft, any robbery, or any burglary with intent to commit theft;
      - (B) any offense under Part 5, Fraud; or
      - (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
- (iv)
- (A) the value of property is or exceeds \$500 but is less than \$1,500;

- (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
- (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
- (v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
- (c) a class A misdemeanor if:
  - (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
  - (ii)
    - (A) the value of property is less than \$500;
    - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
    - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
  - (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).
- (4) Theft by deception does not occur when there is only:
  - (a) falsity as to matters having no pecuniary significance; or
  - (b) puffing by statements unlikely to deceive an ordinary person in the group addressed.

Amended by Chapter 111, 2023 General Session

Amended by Chapter 407, 2023 General Session, (Coordination Clause)

#### **76-6-406 Theft by extortion.**

- (1)
  - (a) As used in this section, extortion occurs when an actor threatens to:
    - (i) cause physical harm in the future to the person threatened, to any other person, or to property at any time;
    - (ii) subject the person threatened or any other person to physical confinement or restraint;
    - (iii) engage in other conduct constituting a crime;
    - (iv) accuse any person of a crime or expose any person to hatred, contempt, or ridicule;
    - (v) reveal any information sought to be concealed by the person threatened;
    - (vi) testify, provide information, or withhold testimony or information with respect to a person's legal claim or defense;
    - (vii) take action as an official against anyone or anything, or withhold official action, or cause such action or withholding;
    - (viii) bring about or continue a strike, boycott, or other similar collective action to obtain property that is not demanded or received for the benefit of the group that the actor purports to represent; or
    - (ix) do any other act which would not in itself substantially benefit the actor but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft by extortion if the actor obtains or exercises control over the property of another person by extortion and with a purpose to deprive the person of the person's property.
- (3) A violation of Subsection (2) is:
  - (a) a second degree felony if the:
    - (i) value of the property is or exceeds \$5,000;
    - (ii) property stolen is a firearm or an operable motor vehicle; or
    - (iii) property is stolen from the person of another;
  - (b) a third degree felony if:
    - (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
    - (ii) the property is:
      - (A) a catalytic converter as defined under Section 76-6-1402; or
      - (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
    - (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
      - (A) any theft, any robbery, or any burglary with intent to commit theft;
      - (B) any offense under Part 5, Fraud; or
      - (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
    - (iv)
      - (A) the value of property is or exceeds \$500 but is less than \$1,500;
      - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
      - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
    - (v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
  - (c) a class A misdemeanor if:
    - (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
    - (ii)
      - (A) the value of property is less than \$500;
      - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
      - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
    - (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
  - (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).
- (4)



- (a) A person who is adversely impacted by the conduct prohibited in Subsection (2) may bring a civil action for equitable relief and damages.
- (b) In accordance with Section 78B-2-305, a person who brings an action under Subsection (4) (a) shall commence the action within three years after the day on which the cause of action arises.

Amended by Chapter 111, 2023 General Session

Amended by Chapter 407, 2023 General Session, (Coordination Clause)

**76-6-407 Theft of lost, mislaid, or mistakenly delivered property.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft of lost, mislaid, or mistakenly delivered property if the actor:
  - (a) obtains another person's property and knows the property to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, without taking reasonable measures to return the property to the owner; and
  - (b) has the purpose to deprive the owner of the property when the actor obtains the property or at any time before taking the measures described in Subsection (2)(a).
- (3) A violation of Subsection (2) is:
  - (a) a second degree felony if the:
    - (i) value of the property is or exceeds \$5,000;
    - (ii) property stolen is a firearm or an operable motor vehicle; or
    - (iii) property is stolen from the person of another;
  - (b) a third degree felony if:
    - (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
    - (ii) the property is:
      - (A) a catalytic converter as defined under Section 76-6-1402; or
      - (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
    - (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
      - (A) any theft, any robbery, or any burglary with intent to commit theft;
      - (B) any offense under Part 5, Fraud; or
      - (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
  - (iv)
    - (A) the value of property is or exceeds \$500 but is less than \$1,500;
    - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
    - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
  - (v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
- (c) a class A misdemeanor if:

- (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- (ii)
  - (A) the value of property is less than \$500;
  - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
  - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
- (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

Amended by Chapter 111, 2023 General Session

Amended by Chapter 407, 2023 General Session, (Coordination Clause)

**76-6-408 Theft by receiving stolen property -- Duties of pawnbrokers, secondhand businesses, coin dealers, and catalytic converter purchasers.**

- (1)
  - (a) As used in this section:
    - (i) "Catalytic converter purchaser" means the same as that term is defined in Section 13-32a-102.
    - (ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.
    - (iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
    - (iv) "Receives" means acquiring possession, control, title, or lending on the security of the property.
    - (v) "Scrap metal processor" means the same as that term is defined in Section 76-6-1402.
    - (vi) "Secondhand actor" means:
      - (A) a pawnbroker;
      - (B) a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property; or
      - (C) an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains property.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft by receiving stolen property if the actor receives, retains, or disposes of the property of another knowing that the property is stolen, or believing that the property is probably stolen, or who conceals, sells, withholds, or aids in concealing, selling, or withholding the property from the owner, knowing or believing the property to be stolen, intending to deprive the owner of the property.
- (3) A violation of Subsection (2) is:
  - (a) a second degree felony if:
    - (i) the value of the property is or exceeds \$5,000; or
    - (ii) the property is a firearm or an operable motor vehicle;
  - (b) a third degree felony if:
    - (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
    - (ii) the property is:
      - (A) a catalytic converter as defined under Section 76-6-1402; or

- (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
- (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
  - (A) any theft, any robbery, or any burglary with intent to commit theft;
  - (B) any offense under Part 5, Fraud; or
  - (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
- (c) a class A misdemeanor if:
  - (i) the value of the property is or exceeds \$500 but is less than \$1,500; or
  - (ii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- (d) a class B misdemeanor if the value of the property is less than \$500 and the theft is not an offense under Subsection (3)(c).
- (4) Except as provided in Subsection (5), the knowledge or belief required under Subsection (2) is presumed in the case of an actor who:
  - (a) is found in possession or control of other property stolen on a separate occasion; or
  - (b) has received other stolen property within the year preceding the receiving offense charged.
- (5)
  - (a) The knowledge or belief required under Subsection (2) may only be presumed of a secondhand actor if the secondhand actor does not substantially comply with the material requirements of Section 13-32a-104.
  - (b) The knowledge or belief required under Subsection (2) may only be presumed of a coin dealer or an employee of a coin dealer if the coin dealer or the employee of the coin dealer does not substantially comply with the requirements of Section 13-32a-104.5.
  - (c) The knowledge or belief required under Subsection (2) may only be presumed of a catalytic converter purchaser if the catalytic converter purchaser does not substantially comply with the material requirements of Section 13-32a-104.7.
- (6) Unless acting as a catalytic converter purchaser, Subsection (5)(c) does not apply to a scrap metal processor.
- (7) This section does not preclude the admission of evidence in accordance with the Utah Rules of Evidence.
- (8) An actor who violates Subsection (2) is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Amended by Chapter 111, 2023 General Session

Amended by Chapter 407, 2023 General Session, (Coordination Clause)

## **76-6-409 Theft of service.**

(1)

- (a) As used in this section, "service" includes:
  - (i) labor, professional service, a public utility or transportation service, restaurant, hotel, motel, tourist cabin, rooming house, and like accommodations, the supplying of equipment, a tool, a vehicle, or a trailer for temporary use, telegraph service, steam, admission to entertainment, an exhibition, a sporting event, or other event for which a charge is made;
  - (ii) gas, electricity, water, sewer, or cable television service, only if the service is obtained by threat, force, or a form of deception not described in Section 76-6-409.3; and
  - (iii) telephone service, only if the service is obtained by threat, force, or a form of deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or 76-6-409.9.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft of service if:
  - (a) the actor, by deception, threat, force, or another means designed to avoid due payment, obtains a service that the actor knows is available only for compensation; or
  - (b) the actor:
    - (i) has control over the disposition of another person's service; and
    - (ii)
      - (A) diverts the other person's service to the benefit of the actor, knowing that the actor is not entitled to the service; or
      - (B) diverts the other person's service to the benefit of a third person, knowing that the third person is not entitled to the service.
- (3) A violation of Subsection (2) is:
  - (a) a second degree felony if the value of the service is or exceeds \$5,000;
  - (b) a third degree felony if:
    - (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;
    - (ii) the value of the service is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
      - (A) any theft, any robbery, or any burglary with intent to commit theft;
      - (B) any offense under Part 5, Fraud; or
      - (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);
    - (iii)
      - (A) the value of the service is or exceeds \$500 but is less than \$1,500;
      - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
      - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
    - (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
  - (c) a class A misdemeanor if:
    - (i) the value of the service stolen is or exceeds \$500 but is less than \$1,500;
    - (ii)
      - (A) the value of the service is less than \$500;
      - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and

- (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
- (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- (d) a class B misdemeanor if the value of the service is less than \$500 and the theft is not an offense under Subsection (3)(c).

Amended by Chapter 111, 2023 General Session

**76-6-409.1 Unlawful device for theft of service -- Seizure and destruction -- Civil actions for damages.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits unlawful device for theft of service if the actor:
  - (a) makes or possesses an instrument, apparatus, equipment, or device for the use of, or for the purpose of, committing or attempting to commit theft under Section 76-6-409 or 76-6-409.3; or
  - (b) sells, offers to sell, advertises, gives, transports, or otherwise transfers to another person:
    - (i) an instrument, apparatus, equipment, or device; or
    - (ii) any information, plan, or instruction for obtaining, making, or assembling an instrument, apparatus, equipment, or device, with intent that the instrument, apparatus, equipment, or device be used, or caused to be used, to commit or attempt to commit theft under Section 76-6-409 or 76-6-409.3.
- (3)
  - (a) A violation of Subsection (2) is a class A misdemeanor.
  - (b) Any instrument, apparatus, equipment, device, information, plan, or instruction referred to in Subsection (2) may be seized pursuant to a court order, lawful search and seizure, lawful arrest, or other lawful process.
  - (c) Upon the conviction of an actor for a violation of this section, the sheriff of the county in which the actor was convicted shall destroy as contraband any instrument, apparatus, equipment, device, information, plan, or instruction.
- (4) A criminal prosecution under this section does not affect any person's right of civil action for redress for damages suffered as a result of a violation of this section.

Amended by Chapter 111, 2023 General Session

**76-6-409.3 Theft of utility or cable television services -- Restitution -- Civil action for damages.**

- (1)
  - (a) As used in this section:
    - (i) "Cable television service" means an audio, video, or data service provided for payment by a cable television company over the cable company's cable system facilities, but does not include the use of a satellite dish or antenna.
    - (ii) "Occupant" includes a person, including the owner, who occupies the whole or part of a building, whether alone or with others.
    - (iii) "Owner" includes a partial owner, joint owner, tenant in common, joint tenant, or tenant by the entirety of the whole or a part of a building and the property on which the building is located.

- (iv) "Person" means an individual, firm, partnership, corporation, company, association, or other legal entity.
  - (v) "Tenant" includes a person, including the owner, who occupies the whole or part of any building, whether alone or with others.
  - (vi) "Utility" means any public utility, municipally owned utility, or cooperative utility that provides electricity, gas, water, or sewer, or any combination of electricity, gas, water, or sewer, for sale to consumers.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft of a utility or cable television service if, with intent to avoid due payment to the utility or cable television company, the actor makes gas, electricity, water, sewer, or cable television available to a tenant or occupant, including to the actor, by committing any of the following acts:
- (a) connecting a tube, pipe, wire, cable, or other instrument with any meter, device, or other instrument used for conducting gas, electricity, water, sewer, or cable television in a manner as permits the use of the gas, electricity, water, sewer, or cable television without the gas, electricity, water, sewer, or cable television passing through a meter or other instrument recording the usage for billing;
  - (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other instrument used for measuring quantities of gas, electricity, water, or sewer service, or making or maintaining any modification or alteration to any device installed with the authorization of a cable television company for the purpose of intercepting or receiving any program or other service carried by the company that the actor is not authorized by the company to receive;
  - (c) reconnecting a gas, electricity, water, sewer, or cable television connection or otherwise restoring service when one or more of those utilities or cable service has been lawfully disconnected or turned off by the provider of the utility or cable service;
  - (d) intentionally breaking, defacing, or causing to be broken or defaced a seal, locking device, or other part of a metering device for recording usage of gas, electricity, water, or sewer service, or a security system for the recording device, or a cable television control device;
  - (e) removing a metering device designed to measure quantities of gas, electricity, water, or sewer service;
  - (f) transferring from one location to another location a metering device for measuring quantities of public utility services of gas, electricity, water, or sewer service;
  - (g) changing the indicated consumption, jamming the measuring device, bypassing the meter or measuring device with a jumper so that it does not indicate use or registers use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from the utility without the gas, electricity, water, or sewer service passing through a metering device for measuring quantities of consumption for billing purposes;
  - (h) using a metering device belonging to the utility that has not been assigned to the location and installed by the utility;
  - (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter utility service diversion, meter tampering, meter thefts, and unauthorized cable television service;
  - (j) assisting or instructing a person in obtaining or attempting to obtain any cable television service without payment of all lawful compensation to the company providing the service;
  - (k) making or maintaining a connection or connections, whether physical, electrical, mechanical, acoustical, or by other means, with a cable, wire, component, or other device used for the distribution of cable television services without authority from the cable television company; or

- (l) possessing without authority any device or printed circuit board designed in whole or in part to receive any cable television programming or service offered for sale over a cable television system, unless the device or printed circuit board includes the use of a satellite dish or antenna, with the intent that the device or printed circuit be used for the reception of the cable television company's services without payment.
- (3)
  - (a) A violation of Subsection (2), if the violation is a theft of a utility service, is:
    - (i) a second degree felony if:
      - (A) the value of the gas, electricity, water, or sewer service is or exceeds \$5,000; or
      - (B) if the actor previously has been convicted of a violation of this section;
    - (ii) a third degree felony if the value of the gas, electricity, water, or sewer service is or exceeds \$1,500 but is not more than \$5,000;
    - (iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service is or exceeds \$500 but is not more than \$1,500; or
    - (iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service is less than \$500.
  - (b) A violation of Subsection (2), if the violation is a theft of a cable television service, is:
    - (i) a second degree felony if the value of the service is or exceeds \$5,000;
    - (ii) a third degree felony if:
      - (A) the value of the service is or exceeds \$1,500 but is less than \$5,000;
      - (B) the value of the service is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
        - (I) any theft, any robbery, or any burglary with intent to commit theft;
        - (II) any offense under Part 5, Fraud; or
        - (III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II); or
      - (C) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(B)(I) through (3)(b)(ii)(B)(III), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
    - (iii) a class A misdemeanor if:
      - (A) the value of the service stolen is or exceeds \$500 but is less than \$1,500; or
      - (B) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(B)(I) through (3)(b)(ii)(B)(III), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
    - (iv) a class B misdemeanor if the value of the service is less than \$500 and the theft is not an offense under Subsection (3)(b)(iii).
  - (c)
    - (i) An actor who violates this section shall make restitution to the utility or cable television company for the value of the gas, electricity, water, sewer, or cable television service consumed in violation of this section plus all reasonable expenses and costs incurred on account of the violation of this section.
    - (ii) Reasonable expenses and costs include expenses and costs for investigation, disconnection, reconnection, service calls, employee time, and equipment use.
- (4)

- (a) The presence on property in the possession of an actor of a device or alteration that permits the diversion or use of utility or cable service to avoid the registration of the use by or on a meter installed by the utility or to otherwise avoid the recording of use of the service for payment or otherwise avoid payment gives rise to an inference that the actor in possession of the property installed the device or caused the alteration if:
    - (i) the presence of the device or alteration can be attributed only to a deliberate act in furtherance of an intent to avoid payment for utility or cable television service; and
    - (ii) the actor charged has received the direct benefit of the reduction of the cost of the utility or cable television service.
  - (b) An actor who aids or abets in a prohibited act is a party to the offense under Section 76-2-202.
- (5)
- (a) Criminal prosecution under this section does not affect the right of a utility or cable television company to bring a civil action for redress for damages suffered as a result of the commission of any of the acts prohibited by this section.
  - (b) This section does not abridge or alter any other right, action, or remedy otherwise available to a utility or cable television company.

Amended by Chapter 111, 2023 General Session

#### **76-6-409.5 Definitions.**

As used in this section and Sections 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, and 76-6-409.10:

- (1) "Access device" means any telecommunication device including the telephone calling card number, electronic serial number, account number, mobile identification number, or personal identification number that can be used to obtain telephone service.
- (2) "Clone cellular telephone" or "counterfeit cellular telephone" means a cellular telephone whose electronic serial number has been altered from the electronic serial number that was programmed in the telephone by the manufacturer by someone other than the manufacturer.
- (3) "Cloning paraphernalia" means materials that, when possessed in combination, are capable of the creation of a cloned cellular telephone. These materials include scanners to intercept the electronic serial number and mobile identification number, cellular telephones, cables, EPROM chips, EPROM burners, software for programming the cloned telephone with a false electronic serial number and mobile identification number combination, a computer containing such software, and lists of electronic serial number and mobile identification number combinations.
- (4) "Electronic serial number" means the unique number that:
  - (a) was programmed into a cellular telephone by its manufacturer;
  - (b) is transmitted by the cellular telephone; and
  - (c) is used by cellular telephone providers to validate radio transmissions to the system as having been made by an authorized device.
- (5) "EPROM" or "Erasable programmable read-only memory" means an integrated circuit memory that can be programmed from an external source and erased, for reprogramming, by exposure to ultraviolet light.
- (6) "Intercept" means to electronically capture, record, reveal, or otherwise access, the signals emitted or received during the operation of a cellular telephone without the consent of the sender or receiver, by means of any instrument, device or equipment.
- (7) "Manufacture of an unlawful telecommunication device" means to produce or assemble an unlawful telecommunication device, or to modify, alter, program, or reprogram a



- telecommunication device to be capable of acquiring or facilitating the acquisition of telecommunication service without the consent of the telecommunication service provider.
- (8) "Mobile identification number" means the cellular telephone number assigned to the cellular telephone by the cellular telephone carrier.
- (9) "Possess" means to have physical possession or otherwise to exercise control over tangible property.
- (10) "Sell" means to offer to, agree to offer to, or to sell, exchange, give, or dispose of an unlawful telecommunications device to another.
- (11) "Telecommunication device" means:
- (a) any type of instrument, device, machine, or equipment which is capable of transmitting or receiving telephonic, electronic, or radio communications; or
  - (b) any part of an instrument, device, machine, or equipment, or other computer circuit, computer chip, electronic mechanism, or other component, which is capable of facilitating the transmission or reception of telephonic or electronic communications within the radio spectrum allocated to cellular radio telephony.
- (12) "Telecommunication service" includes any service provided for a charge or compensation to facilitate the origination, transmission, emission, or reception of signs, signals, writings, images, and sounds or intelligence of any nature by telephone, including cellular telephones, wire, radio, television optical or other electromagnetic system.
- (13) "Telecommunication service provider" means any person or entity providing telecommunication service including a cellular telephone or paging company or other person or entity which, for a fee, supplies the facility, cell site, mobile telephone switching office, or other equipment or telecommunication service.
- (14) "Unlawful telecommunication device" means any telecommunication device that is capable of, or has been altered, modified, programmed, or reprogrammed, alone or in conjunction with another access device, so as to be capable of, acquiring or facilitating the acquisition of a telecommunication service without the consent of the telecommunication service provider. Unlawful devices include tumbler phones, counterfeit phones, tumbler microchips, counterfeit microchips, and other instruments capable of disguising their identity or location or of gaining access to a communications system operated by a telecommunication service provider.

Amended by Chapter 111, 2023 General Session

**76-6-409.6 Use of telecommunication device to avoid lawful charge for service.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.
- (2) An actor commits use of a telecommunication device to avoid lawful charge for service if the actor uses a telecommunication device:
- (a) with the intent to avoid the payment of a lawful charge for telecommunication service; or
  - (b) with the knowledge that the use of the telecommunication device was to avoid the payment of a lawful charge for telecommunication service.
- (3)
- (a) A violation of Subsection (2) is:
    - (i) a class B misdemeanor, if the value of the telecommunication service is less than \$300 or cannot be ascertained;
    - (ii) a class A misdemeanor, if the value of the telecommunication service charge is or exceeds \$300 but is not more than \$1,000;
    - (iii) a third degree felony, if the value of the telecommunication service is or exceeds \$1,000 but is not more than \$5,000; or

- (iv) a second degree felony, if:
  - (A) the value of the telecommunication service is or exceeds \$5,000;
  - (B) the cloned cellular telephone was used to facilitate the commission of a felony; or
  - (C) the actor previously has been convicted of a violation of this section.
- (b) An actor who violates this section is subject to the restitution and civil action provisions described in Section 76-6-409.10.

Amended by Chapter 111, 2023 General Session

**76-6-409.7 Possession of unlawful telecommunication device.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.
- (2) An actor commits possession of unlawful telecommunication device if the actor knowingly possesses an unlawful telecommunication device.
- (3)
  - (a) Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection (2) is a class B misdemeanor.
  - (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third degree felony if the actor knowingly possesses five or more unlawful telecommunication devices in the same criminal episode.
  - (c) A violation of Subsection (2) is a second degree felony if the actor:
    - (i) knowingly and unlawfully possesses an instrument capable of intercepting electronic serial number and mobile identification number combinations under circumstances evidencing an intent to clone; or
    - (ii) knowingly and unlawfully possesses cloning paraphernalia under circumstances evidencing an intent to clone.
  - (d) An actor who violates this section is subject to the restitution and civil action provisions described in Section 76-6-409.10.

Amended by Chapter 111, 2023 General Session

**76-6-409.8 Sale of an unlawful telecommunication device.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.
- (2) An actor commits sale of unlawful telecommunication device if the actor intentionally sells an unlawful telecommunication device or material, including hardware, data, computer software, or other information or equipment, knowing that the purchaser or a third person intends to use such material in the manufacture of an unlawful telecommunication device.
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.
  - (b) A violation of Subsection (2) is a second degree felony if the offense involves the intentional sale of five or more unlawful telecommunication devices within a six-month period.
  - (c) An actor who violates this section is subject to the restitution and civil action provisions described in Section 76-6-409.10.

Amended by Chapter 111, 2023 General Session

**76-6-409.9 Manufacture of an unlawful telecommunication device.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.

- (2) An actor commits manufacture of unlawful telecommunication device if the actor intentionally manufactures an unlawful telecommunication device.
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is third degree felony.
  - (b) A violation of Subsection (2) is a second degree felony if the offense involves the intentional manufacture of five or more unlawful telecommunication devices within a six-month period.
  - (c) An actor who violates this section is subject to the restitution and civil action provisions described in Section 76-6-409.10.

Amended by Chapter 111, 2023 General Session

**76-6-409.10 Payment of restitution -- Civil action -- Other remedies retained.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.
- (2)
  - (a)
    - (i) An actor who violates Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or 76-6-409.9 shall make restitution to the telecommunication service provider for the value of the telecommunication service consumed in the violation plus all reasonable expenses and costs incurred on account of the violation.
    - (ii) Reasonable expenses and costs include expenses and costs for investigation, service calls, employee time, and equipment use.
  - (b) A criminal prosecution under Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or 76-6-409.9 does not affect the right of a telecommunication service provider to bring a civil action for redress for damages suffered as a result of the commission of any of the acts prohibited by Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or 76-6-409.9.
- (3) This section does not abridge or alter any other right, action, or remedy otherwise available to a telecommunication service provider.

Amended by Chapter 111, 2023 General Session

**76-6-410 Theft by custodian of property pursuant to repair or rental agreement.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft by custodian of property pursuant to repair or rental agreement if:
  - (a)
    - (i) the actor has custody of property pursuant to an agreement between the actor or another person and the property's owner;
    - (ii) the actor or another person is to perform for compensation a specific service for the property's owner involving the maintenance, repair, or use of the owner's property; and
    - (iii) the actor intentionally uses or operates the owner's property, without the consent of the owner, for the actor's own purposes in a manner constituting a gross deviation from the agreed purpose; or
  - (b)
    - (i) the actor has custody of any property pursuant to a rental or lease agreement in which the property is to be returned in a specified manner or at a specified time; and
    - (ii) the actor intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement.
- (3) A violation of Subsection (2) is:
  - (a) a second degree felony if the:

- (i) value of the property is or exceeds \$5,000; or
- (ii) property stolen is a firearm or an operable motor vehicle;
- (b) a third degree felony if:
  - (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
  - (ii) the property is:
    - (A) a catalytic converter as defined under Section 76-6-1402; or
    - (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
  - (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
    - (A) any theft, any robbery, or any burglary with intent to commit theft;
    - (B) any offense under Part 5, Fraud; or
    - (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
  - (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
- (c) a class A misdemeanor if:
  - (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or
  - (ii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

Amended by Chapter 111, 2023 General Session

Amended by Chapter 407, 2023 General Session, (Coordination Clause)

#### **76-6-410.5 Theft of a rental vehicle.**

- (1)
  - (a) As used in this section:
    - (i) "Motor vehicle" means a self-propelled vehicle that is intended primarily for use and operation on the highways.
    - (ii) "Rental agreement" means a written agreement stating the terms and conditions governing the use of a motor vehicle provided by a rental company.
    - (iii) "Rental company" means a person or organization in the business of providing motor vehicles to the public.
    - (iv) "Renter" means a person or organization obtaining the use of a motor vehicle from a rental company under the terms of a rental agreement.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft of a rental vehicle if the actor:
  - (a) is a renter; and

- (b) without notice to and permission of the rental company, knowingly fails without good cause to return the vehicle within 72 hours after the time established for the return in the rental agreement.
- (3) A violation of Subsection (2) is a second degree felony.
- (4) If a motor vehicle is not rented on a periodic tenancy basis, the rental company shall include the following information, legibly written, as part of the terms of the rental agreement:
  - (a) the date and time the motor vehicle is required to be returned; and
  - (b) the maximum penalties under state law if the motor vehicle is not returned within 72 hours from the date and time stated in compliance with Subsection (4)(a).

Amended by Chapter 111, 2023 General Session

**76-6-412.1 Civil remedy for animal theft.**

In addition to a criminal penalty under this chapter, an actor who commits theft of a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, a fur-bearing animal raised for commercial purposes, or a livestock guardian dog, is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Enacted by Chapter 111, 2023 General Session

**76-6-413 Release of a fur-bearing animal -- Finding.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits release of a fur-bearing animal if the actor intentionally and without permission of the owner releases a fur-bearing animal raised for commercial purposes.
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.
  - (b) A violation of Subsection (2) is a second degree felony if the value of the property is or exceeds \$5,000.
- (4) The Legislature finds that the release of a fur-bearing animal raised for commercial purposes subjects the animal to unnecessary suffering through deprivation of food and shelter and compromises the animal's genetic integrity, thereby permanently depriving the owner of substantial value.
- (5) An actor who violates Subsection (2) is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Amended by Chapter 111, 2023 General Session

**76-6-414 Theft resulting in economic interruption -- Enhanced penalties.**

- (1)
  - (a) As used in this section:
    - (i) "Business" means the same as that term is defined in Section 76-6-113.
    - (ii) "Governmental entity" means the same as that term is defined in Section 76-6-113.
    - (iii) "Economic interruption" means the same as that term is defined in Section 76-6-113.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-401 apply to this section.
- (2) An actor commits theft resulting in economic interruption if:

- (a) the actor intentionally, knowingly, recklessly, or negligently obtains or exercises unauthorized control over a business's or governmental entity's property with the intent to deprive the business or governmental entity of the property; and
  - (b) the actor's actions under Subsection (2)(a) cause an economic interruption for the business or governmental entity.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) It is not a defense under this section that the actor did not know that the victim is a business or governmental entity.
- (5) If the trier of facts finds that the actor committed a violation of Subsection (2), the actor is guilty of:
- (a) a third degree felony if the actor has two prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2); and
  - (b) a second degree felony if the actor has at least three prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2).
- (6) A prior conviction used for a penalty enhancement under Subsection (5) is a conviction that is from a separate criminal episode than:
- (a) the most recent violation of Subsection (2); and
  - (b) any other prior conviction that is used to enhance the penalty for the most recent violation of Subsection (2).
- (7) The prosecuting attorney, or the grand jury if an indictment is returned, shall include notice in the information or indictment that the offense is subject to an enhancement under Subsection (5).

Enacted by Chapter 230, 2024 General Session