

## Chapter 6 Offenses Against Property

### Part 1 Property Destruction

#### **76-6-101 Definitions.**

- (1) As used in this part:
  - (a) "Etching" means defacing, damaging, or destroying hard surfaces by means of an abrasive object, a knife, or an engraving device, or a chemical action which uses any caustic cream, gel, liquid, or solution.
  - (b) "Fire" means a flame, heat source capable of combustion, or material capable of combustion that is caused, set, or maintained by a person for any purpose.
  - (c) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching, painting, affixing, etching, or inscribing on the property of another regardless of the content or the nature of the material used in the commission of the act.
  - (d) "Habitable structure" means a structure that has the apparent purpose of or is used for lodging or assembling persons or conducting business whether a person is actually present or not.
  - (e) "Property" means:
    - (i) any form of real property or tangible personal property which is capable of being damaged or destroyed and includes a habitable structure; and
    - (ii) the property of another, if anyone other than the actor has a possessory or proprietary interest in any portion of the property.
  - (f) "Value" means:
    - (i) the market value of the property, if totally destroyed, at the time and place of the offense, or where cost of replacement exceeds the market value; or
    - (ii) where the market value cannot be ascertained, the cost of repairing or replacing the property within a reasonable time following the offense.
- (2) Terms defined in Section 76-1-101.5 apply to this part.
- (3) If the property damaged has a value that cannot be ascertained by the criteria set forth in Subsection (1)(f), the property shall be considered to have a value less than \$500.

Amended by Chapter 102, 2023 General Session

Amended by Chapter 111, 2023 General Session

#### **76-6-102 Arson.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits arson if, under circumstances not amounting to aggravated arson, the person by means of fire or explosives unlawfully and intentionally damages:
  - (a) any property with intention of defrauding an insurer; or
  - (b) the property of another.
- (3)
  - (a) A violation of Subsection (2)(a) is a second degree felony.
  - (b) A violation of Subsection (2)(b) is a second degree felony if:
    - (i) the damage caused is or exceeds \$5,000 in value;

- (ii) as a proximate result of the fire or explosion, any person not a participant in the offense suffers serious bodily injury as defined in Section 76-1-101.5;
- (iii)
  - (A) the damage caused is or exceeds \$1,500 but is less than \$5,000 in value; and
  - (B) at the time of the offense the actor has been previously convicted of a violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the commission of the violation of Subsection (2)(b).
- (c) A violation of Subsection (2)(b) is a third degree felony if:
  - (i) the damage caused is or exceeds \$1,500 but is less than \$5,000 in value;
  - (ii) as a proximate result of the fire or explosion, any person not a participant in the offense suffers substantial bodily injury as defined in Section 76-1-101.5;
  - (iii) the fire or explosion endangers human life; or
  - (iv)
    - (A) the damage caused is or exceeds \$500 but is less than \$1,500 in value; and
    - (B) at the time of the offense the actor has been previously convicted of a violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the commission of the violation of Subsection (2)(b).
- (d) A violation of Subsection (2)(b) is a class A misdemeanor if the damage caused:
  - (i) is or exceeds \$500 but is less than \$1,500 in value; or
  - (ii)
    - (A) is less than \$500; and
    - (B) at the time of the offense the actor has been previously convicted of a violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the commission of the violation of Subsection (2)(b).
- (e) A violation of Subsection (2)(b) is a class B misdemeanor if the damage caused is less than \$500.

Amended by Chapter 111, 2023 General Session

#### **76-6-103 Aggravated arson.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits aggravated arson if by means of fire or explosives the actor intentionally and unlawfully damages:
  - (a) a habitable structure; or
  - (b) any structure or vehicle when any person not a participant in the offense is in the structure or vehicle.
- (3) A violation of Subsection (2) is a first degree felony.

Amended by Chapter 111, 2023 General Session

#### **76-6-104 Reckless burning.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits reckless burning if the actor:
  - (a) recklessly starts a fire or causes an explosion which endangers human life;
  - (b) having started a fire, whether recklessly or not, and knowing that it is spreading and will endanger the life or property of another, either fails to take reasonable measures to put out or control the fire or fails to give a prompt fire alarm;

- (c) builds or maintains a fire without taking reasonable steps to remove all flammable materials surrounding the site of the fire as necessary to prevent the fire's spread or escape; or
  - (d) damages the property of another by reckless use of fire or causing an explosion.
- (3)
- (a) A violation of Subsection (2)(a) or (b) is a class A misdemeanor.
  - (b) A violation of Subsection (2)(c) is a class B misdemeanor.
  - (c) A violation of Subsection (2)(d) is:
    - (i) a class A misdemeanor if damage to property is or exceeds \$1,500 in value;
    - (ii) a class B misdemeanor if the damage to property is or exceeds \$500 but is less than \$1,500 in value; and
    - (iii) a class C misdemeanor if the damage to property is or exceeds \$150 but is less than \$500 in value.
  - (d) Any other violation under Subsection (2)(d) is an infraction.

Amended by Chapter 111, 2023 General Session

#### **76-6-104.5 Abandonment of a fire -- Penalties.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits abandonment of a fire if, under circumstances not amounting to the offense of arson, aggravated arson, or causing a catastrophe, the actor leaves a fire:
  - (a) without first completely extinguishing it; and
  - (b) with the intent to not return to the fire.
- (3) A violation of Subsection (2):
  - (a) is a class C misdemeanor if there is no property damage;
  - (b) is a class B misdemeanor if property damage is less than \$1,000 in value; and
  - (c) is a class A misdemeanor if property damage is or exceeds \$1,000 in value.
- (4) An actor does not commit a violation of Subsection (2) if the actor leaves a fire to report an uncontrolled fire.
- (5) If a violation of Subsection (2) involves a wildland fire, the actor is also liable for suppression costs under Section 65A-3-4.
- (6) A fire spreading or reigniting is prima facie evidence that the actor did not completely extinguish the fire as required by Subsection (2)(a).

Amended by Chapter 111, 2023 General Session

#### **76-6-105 Causing a catastrophe -- Penalties.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits causing a catastrophe if the actor causes widespread injury or damage to persons or property by:
  - (a) use of a weapon of mass destruction as defined in Section 76-10-401; or
  - (b) explosion, fire, flood, avalanche, collapse of a building, or other harmful or destructive force or substance that is not a weapon of mass destruction.
- (3) A violation of Subsection (2) is:
  - (a) a first degree felony if the actor causes the catastrophe knowingly and by the use of a weapon of mass destruction;
  - (b) a second degree felony if the actor causes the catastrophe knowingly and by a means other than a weapon of mass destruction; and
  - (c) a class A misdemeanor if the actor causes the catastrophe recklessly.

- (4) In addition to any other penalty authorized by law, a court shall order an actor convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

Amended by Chapter 111, 2023 General Session

**76-6-106 Criminal mischief.**

- (1)
- (a) As used in this section, "critical infrastructure" includes:
    - (i) financial and banking systems;
    - (ii) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed guideways, or other transportation systems intended for the transportation of persons or property;
    - (iii) health care facilities as listed in Section 26B-2-201, and emergency fire, medical, and law enforcement response systems;
    - (iv) public health facilities and systems;
    - (v) food distribution systems; and
    - (vi) other government operations and services.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits criminal mischief if the actor:
- (a) intentionally and unlawfully tampers with the property of another and as a result:
    - (i) recklessly endangers:
      - (A) human life; or
      - (B) human health or safety; or
    - (ii) recklessly causes or threatens a substantial interruption or impairment of any critical infrastructure; or
  - (b) recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing.
- (3)
- (a) A violation of Subsection (2)(a)(i)(A) is a class A misdemeanor.
  - (b) A violation of Subsection (2)(a)(i)(B) is a class B misdemeanor.
  - (c) A violation of Subsection (2)(a)(ii) is a second degree felony.
  - (d) Any other violation of this section is a:
    - (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$5,000 in value;
    - (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$1,500 but is less than \$5,000 in value;
    - (iii) class A misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and
    - (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss less than \$500 in value.
- (4) In determining the value of damages under this section, or for computer crimes under Section 76-6-703, the value of any item, computer, computer network, computer property, computer services, software, or data includes the measurable value of the loss of use of the items and the measurable cost to replace or restore the items.
- (5) In addition to any other penalty authorized by law, a court shall order an actor convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any

private business, organization, individual, or entity for all expenses incurred in responding to a violation of Subsection (2)(a)(ii), unless the court states on the record the reasons why the reimbursement would be inappropriate.

Amended by Chapter 111, 2023 General Session

Amended by Chapter 179, 2023 General Session

Amended by Chapter 330, 2023 General Session

**76-6-106.1 Property damage or destruction.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits property damage or destruction if the actor under circumstances not amounting to arson or criminal mischief:
  - (a) damages or destroys property with the intention of defrauding an insurer; or
  - (b) intentionally damages, defaces, or destroys the property of another.
- (3)
  - (a)
    - (i) Except as provided in Subsection (3)(a)(ii), a violation of Subsection (2)(a) is a third degree felony.
    - (ii) A violation of Subsection (2)(a) is a second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$5,000.
  - (b) A violation of Subsection (2)(b) is a:
    - (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$5,000 in value;
    - (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$1,500 but is less than \$5,000 in value;
    - (iii) class A misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and
    - (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss less than \$500 in value.
- (4) In determining the value of damages under this section, or for computer crimes under Section 76-6-703, the value of any item, computer, computer network, computer property, computer services, software, or data includes the measurable value of the loss of use of the items and the measurable cost to replace or restore the items.

Enacted by Chapter 111, 2023 General Session

**76-6-106.3 Destruction or tampering with a critical infrastructure facility -- Penalty.**

- (1)
  - (a) As used in this section:
    - (i) "Critical infrastructure facility" means:
      - (A) a petroleum or alumina refinery;
      - (B) critical electric infrastructure, as defined in 18 C.F.R. Sec. 388.113, including an electrical power generating facility, substation, switching station, electrical control center, or electric power lines and associated equipment infrastructure;
      - (C) a chemical, polymer, or rubber manufacturing facility;
      - (D) a water facility as defined in Section 73-1-14, water intake structure, water storage facility, water treatment facility, wastewater treatment plant, wastewater pumping facility, or pump station;

- (E) a natural gas compressor station;
  - (F) a liquid natural gas terminal or storage facility;
  - (G) a telecommunications switching, routing, or regeneration office or facility;
  - (H) wireless telecommunications infrastructure, including cell towers;
  - (I) telecommunications equipment, facilities, or infrastructure used for the transmission or distribution of a communications service;
  - (J) a port, railroad switching yard, railroad tracks, trucking terminal, or other freight transportation facility;
  - (K) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;
  - (L) a transmission facility used by a federally licensed radio or television station;
  - (M) a steelmaking facility that uses an electric arc furnace to make steel;
  - (N) a facility identified and regulated by the Chemical Facility Anti-Terrorism Standards program under 6 U.S.C. Sec. 622;
  - (O) a natural gas distribution utility facility, including natural gas distribution and transmission mains and services, pipeline interconnections, a city gate or town border station, metering station, meters, aboveground piping and facilities, a regulator station, and a natural gas storage facility;
  - (P) a crude oil or refined products production, storage, and distribution facility, including a wellhead and associated production and collection infrastructure, valve sites, pipeline interconnection, pump station, metering station, below or aboveground pipeline or piping, and truck loading or offloading facility;
  - (Q) a grain mill or processing facility;
  - (R) a generation, transmission, or distribution system of broadband Internet access; or
  - (S) an aboveground portion of an oil, gas, hazardous liquid or chemical production facility including the wellhead and associated production and collection infrastructure, pipeline, tank, railroad facility, or other storage facility that is enclosed by a physical barrier or is marked with signs prohibiting trespassing if the enclosures or signs are designed to exclude intruders.
- (ii) "Critical infrastructure facility" includes a facility described in Subsection (1)(a)(i) that is:
- (A) under construction; or
  - (B) operational.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor is guilty of destruction or tampering with a critical infrastructure facility if the actor, by physical, cyber, or other means, causes widespread injury or damage to persons or property by:
- (a) destroying or substantially damaging:
    - (i) a critical infrastructure facility; or
    - (ii) a critical infrastructure facility's equipment; or
  - (b) substantially tampering with, inhibiting, or impeding the operation of a critical infrastructure facility.
- (3)
- (a) A violation of Subsection (2) is a first degree felony if done intentionally or knowingly.
  - (b) A violation of Subsection (2) is a second degree felony if done recklessly.

Enacted by Chapter 179, 2023 General Session

**76-6-107 Defacement by graffiti defined -- Penalties -- Removal costs -- Reimbursement liability -- Victim liability.**

- (1)
  - (a) As used in this section, "victim" means the person whose property is defaced or damaged by the use of graffiti and who bears the expense for removal of the graffiti.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits defacement by graffiti if the actor, without permission, defaces or damages the property of another by graffiti.
- (3) A violation of Subsection (2) is a:
  - (a) second degree felony if the damage caused is in excess of \$5,000;
  - (b) third degree felony if the damage caused is equal to or in excess of \$1,000 but less than or equal to \$5,000;
  - (c) class A misdemeanor if the damage caused is equal to or in excess of \$300 but less than \$1,000; and
  - (d) class B misdemeanor if the damage caused is less than \$300.
- (4) Damages under Subsection (3) include removal costs, repair costs, or replacement costs, whichever is less.
- (5) The court shall order an individual convicted under Subsection (3) to pay restitution to the victim in an amount equal to the costs incurred by the victim as a result of the graffiti.
- (6) An additional amount of \$1,000 in restitution shall be added to removal costs if the graffiti is positioned on an overpass or an underpass, requires that traffic be interfered with in order to remove it, or the entity responsible for the area in which the clean-up is to take place must provide assistance in order for the removal to take place safely.
- (7) An individual who voluntarily, at the individual's own expense, and with the consent of the property owner, removes graffiti for which the individual is responsible may be credited for the removal costs against restitution ordered by a court.
- (8) Before an authorized government agency may issue a citation or assess a fine to a victim for the victim's failure to remove graffiti from the victim's property, the agency shall:
  - (a) provide written notice to the victim alerting the victim of the graffiti;
  - (b) allow the victim one week after the day on which the agency provides written notice of the graffiti to remove the graffiti; and
  - (c) provide the victim with a list of resources available to assist the victim with removal of the graffiti.
- (9)
  - (a) After receiving notification of graffiti under Subsection (8)(a), a victim who is unable to remove the graffiti due to physical or financial hardship may alert the agency that provided notice under Subsection (8)(a) of the hardship.
  - (b) If an authorized government agency finds a victim has demonstrated that the victim would experience significant hardship in removing the graffiti, the agency:
    - (i) may not issue a citation or assess a fee to the victim for failure to remove the graffiti; and
    - (ii) shall provide, or hire an outside entity to provide, the assistance necessary to remove the graffiti from the victim's property.
  - (c) An authorized government agency that provides, or hires an outside agency to provide, assistance under Subsection (9)(b)(ii), may request reimbursement from a restitution order, under Subsection (5), against an individual who used graffiti to damage the property that the agency removed, or paid another to remove.

Amended by Chapter 111, 2023 General Session

**76-6-107.5 Defacing by graffiti on public lands.**

- (1)
- (a) As used in this section, "public lands" means state or federally owned property that is held substantially in the property's natural state, including canyons, parks owned or managed by the state, national parks, land managed by the Bureau of Land Management, and other lands owned or maintained by a government entity for outdoor recreational use.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits defacing by graffiti on public lands if the actor creates, or assists in creating, graffiti on any public lands or state-owned object permanently located on public lands.
- (3) A violation of Subsection (2) is;
- (a) a class B misdemeanor; or
  - (b) if the individual was previously convicted of violating this section, a class A misdemeanor.
- (4) If an actor is convicted of defacing by graffiti on public lands, the court shall sentence the actor to a term of community service as follows:
- (a) for a first conviction, the court shall sentence the actor to 100 hours of community service, to be completed within 90 days after the day on which the court issues the order;
  - (b) for a second conviction, the court shall sentence the actor to 200 hours of community service, to be completed within 180 days after the day on which the court issues the order; or
  - (c) for a third or subsequent conviction, the court shall sentence the actor to 300 hours of community service, to be completed within 270 days after the day on which the court issues the order.
- (5) If an actor is enrolled in school or maintains full or part-time employment, the ordered community service may not be scheduled at a time the actor is scheduled to be in school or performing the individual's employment duties.
- (6) A sentence of community service described in Subsection (4) shall, to the greatest extent possible, be for the benefit of public lands.
- (7) If an actor is convicted of defacing by graffiti on public lands, the court may impose a fine up to the full amount of the estimated cost to restore the damaged land, caused by the actor, to the land's original state.
- (8) An actor who voluntarily, at the actor's own expense, and with the consent of the property owner, removes graffiti for which the actor is responsible shall be credited for costs ordered by the court under Subsection (7).

Amended by Chapter 111, 2023 General Session

Amended by Chapter 411, 2023 General Session

**76-6-108 Damage to or interruption of a communication device -- Penalty.**

- (1)
- (a) As used in this section:
    - (i) "Communication device" means any device, including a telephone, cellular telephone, computer, or radio, which may be used in an attempt to summon police, fire, medical, or other emergency aid.
    - (ii) "Emergency aid" means aid or assistance, including law enforcement, fire, or medical services, commonly summoned by persons concerned with imminent or actual:
      - (A) jeopardy to any person's health or safety; or
      - (B) damage to any person's property.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.



- (2) An actor commits damage to or interruption of a communication device if the actor attempts to prohibit or interrupt, or prohibits or interrupts, another person's use of a communication device when the other person is attempting to summon emergency aid or has communicated a desire to summon emergency aid, and in the process the actor:
  - (a) uses force, intimidation, or any other form of violence;
  - (b) destroys, disables, or damages a communication device; or
  - (c) commits any other act in an attempt to prohibit or interrupt the person's use of a communication device to summon emergency aid.
- (3) A violation of Subsection (2) is a class B misdemeanor.

Amended by Chapter 111, 2023 General Session

**76-6-111 Wanton destruction of livestock -- Penalties -- Restitution criteria -- Seizure and disposition of property.**

- (1)
  - (a) As used in this section:
    - (i) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
    - (ii) "Livestock" means a domestic animal or fur bearer raised or kept for profit or as an asset, including:
      - (A) cattle;
      - (B) sheep;
      - (C) goats;
      - (D) swine;
      - (E) horses;
      - (F) mules;
      - (G) poultry;
      - (H) domesticated elk as defined in Section 4-39-102; and
      - (I) livestock guardian dogs.
    - (iii) "Livestock guardian dog" means a dog that is being used to live with and guard livestock, other than itself, from predators.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) Unless authorized by Section 4-25-201, 4-25-202, 4-25-401, 4-39-401, or 18-1-3, an actor commits wanton destruction of livestock if the actor:
  - (a) injures, physically alters, releases, or causes the death of livestock; and
  - (b) does so:
    - (i) intentionally or knowingly; and
    - (ii) without the permission of the owner of the livestock.
- (3) A violation of Subsection (2) is a:
  - (a) class B misdemeanor if the aggregate value of the livestock is \$250 or less;
  - (b) class A misdemeanor if the aggregate value of the livestock is more than \$250, but does not exceed \$750;
  - (c) third degree felony if the aggregate value of the livestock is more than \$750, but does not exceed \$5,000; and
  - (d) second degree felony if the aggregate value of the livestock is more than \$5,000.
- (4) For purposes of this section, a livestock guardian dog is presumed to belong to an owner of the livestock with which the livestock guardian dog was living at the time of an alleged violation of Subsection (2).

- (5) When a court orders an actor who is convicted of wanton destruction of livestock to pay restitution under Title 77, Chapter 38b, Crime Victims Restitution Act, the court shall consider the restitution guidelines in Subsection (6) when setting the amount of restitution under Section 77-38b-205.
- (6) The minimum restitution value for cattle and sheep is the sum of the following, unless the court states on the record why it finds the sum to be inappropriate:
  - (a) the fair market value of the animal, using as a guide the market information obtained from the Department of Agriculture and Food created under Section 4-2-102; and
  - (b) 10 years times the average annual value of offspring, for which average annual value is determined using data obtained from the National Agricultural Statistics Service within the United States Department of Agriculture, for the most recent 10-year period available.
- (7) A material, device, or vehicle used in violation of Subsection (2) is subject to forfeiture under the procedures and substantive protections established in Title 77, Chapter 11b, Forfeiture of Seized Property.
- (8) A peace officer may seize a material, device, or vehicle used in violation of Subsection (2):
  - (a) upon notice and service of process issued by a court having jurisdiction over the property; or
  - (b) without notice and service of process if:
    - (i) the seizure is incident to an arrest under:
      - (A) a search warrant; or
      - (B) an inspection under an administrative inspection warrant;
    - (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or
    - (iii) the peace officer has probable cause to believe that the property has been used in violation of Subsection (2).
- (9)
  - (a) A material, device, or vehicle seized under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of a court or official having jurisdiction.
  - (b) A peace officer who seizes a material, device, or vehicle under this section may:
    - (i) place the property under seal;
    - (ii) remove the property to a place designated by the warrant under which it was seized; or
    - (iii) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

Amended by Chapter 111, 2023 General Session

Amended by Chapter 448, 2023 General Session

#### **76-6-112 Agricultural operation interference -- Penalties.**

- (1)
  - (a) As used in this section, "agricultural operation" means private property used for the production of livestock, poultry, livestock products, or poultry products.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits agricultural operation interference if the actor:
  - (a) without consent from the owner of the agricultural operation, or the owner's agent, knowingly or intentionally records an image of, or sound from, the agricultural operation by leaving a recording device on the agricultural operation;
  - (b) obtains access to an agricultural operation under false pretenses;
  - (c)

- (i) applies for employment at an agricultural operation with the intent to record an image of, or sound from, the agricultural operation;
  - (ii) knows, at the time that the actor accepts employment at the agricultural operation, that the owner of the agricultural operation prohibits the employee from recording an image of, or sound from, the agricultural operation; and
  - (iii) while employed at, and while present on, the agricultural operation, records an image of, or sound from, the agricultural operation; or
  - (d) without consent from the owner of the operation or the owner's agent, knowingly or intentionally records an image of, or sound from, an agricultural operation while the person is committing criminal trespass, as described in Section 76-6-206, on the agricultural operation.
- (3)
- (a) A violation of Subsection (2)(a) is a class A misdemeanor.
  - (b) A violation of Subsection (2)(b), (c), or (d) is a class B misdemeanor.

Amended by Chapter 111, 2023 General Session

**76-6-113 Property damage resulting in economic interruption -- Enhanced penalties.**

- (1)
- (a) As used in this section:
    - (i) "Business" means an enterprise carried on for the purpose of gain or economic profit.
    - (ii) "Governmental entity" means the state, a county, a municipality, a special district, a special service district, a school district, a state institution of higher education, or any other political subdivision or administrative unit of the state.
    - (iii) "Economic interruption" means any disruption or cessation to the operations of a business or governmental entity that results in:
      - (A) the business or governmental entity ceasing operations for at least one day; or
      - (B) the employees of the business or governmental entity being unable to perform labor for the business or governmental entity for at least one day.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits property damage resulting in economic interruption if:
- (a) the actor intentionally, knowingly, recklessly, or negligently damages, defaces, or destroys a business's or governmental entity's 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

## **Part 2**

### **Burglary and Criminal Trespass**

#### **76-6-201 Definitions.**

As used in this part:

- (1)
  - (a) "Building," in addition to its ordinary meaning, means any watercraft, aircraft, trailer, or other structure or vehicle adapted for overnight accommodation of persons or for carrying on business and includes:
    - (i) each separately secured or occupied portion of the structure or vehicle; and
    - (ii) each structure appurtenant to or connected with the structure or vehicle.
  - (b) "Building" does not include a railroad car.
- (2) "Dwelling" means a building which is usually occupied by a person lodging in the building at night, whether or not a person is actually present.
- (3) "Enter or remain unlawfully" means a person enters or remains in or on any premises when:
  - (a) at the time of the entry or remaining, the premises or any portion of the premises are not open to the public; and
  - (b) the actor is not otherwise licensed or privileged to enter or remain on the premises or any portion of the premises.
- (4) "Enter" means:
  - (a) intrusion of any part of the body; or
  - (b) intrusion of any physical object under control of the actor.
- (5) "Railroad car":
  - (a) in addition to its ordinary meaning, includes a sleeping car or any container or trailer that is on a railroad car; and
  - (b) includes only a railroad car that is operable and part of an ongoing railroad operation.

Amended by Chapter 366, 2008 General Session

#### **76-6-202 Burglary.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits burglary if the actor enters or remains unlawfully in a building or any portion of a building with intent to commit:
  - (a) a felony;
  - (b) theft;
  - (c) an assault on any person;
  - (d) lewdness, in violation of Section 76-9-702;
  - (e) sexual battery, in violation of Section 76-9-702.1;

- (f) lewdness involving a child, in violation of Section 76-9-702.5; or
  - (g) voyeurism, in violation of Section 76-9-702.7.
- (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 violation is committed in a dwelling.
- (4) A violation of this section is a separate offense from any of the offenses listed in Subsections (2)(a) through (g), and which may be committed by the actor while in the building.

Amended by Chapter 111, 2023 General Session

**76-6-202.2 Interruption of a connected service in the commission of a burglary.**

- (1)
- (a) As used in this section:
    - (i) "Burglary" means an offense under Section 76-6-202.
    - (ii) "Connected service" means electrical, Internet, or telephone service.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits interruption of a connected service in the commission of a burglary if, in attempting, committing, or fleeing from a burglary, the actor knowingly damages, disables, or interrupts a connected service.
- (3) A violation of Subsection (2) is a third degree felony.

Enacted by Chapter 326, 2024 General Session

**76-6-203 Aggravated burglary.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits aggravated burglary if in attempting, committing, or fleeing from a burglary the actor or another participant in the crime:
- (a) causes bodily injury to any person who is not a participant in the crime;
  - (b) uses or threatens the immediate use of a dangerous weapon against any person who is not a participant in the crime; or
  - (c) possesses or attempts to use any explosive or dangerous weapon.
- (3) A violation of Subsection (2) is a first degree felony.

Amended by Chapter 111, 2023 General Session

**76-6-204 Burglary of a vehicle -- Charge of other offense.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits burglary of a vehicle if the actor unlawfully enters any vehicle with intent to commit a felony or theft.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) A charge against an actor for a violation of Subsection (2) does not preclude a charge for a commission of any other offense.

Amended by Chapter 111, 2023 General Session

**76-6-204.5 Burglary of a railroad car -- Charge of other offenses.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

- (2) An actor commits burglary of a railroad car if the actor breaks the lock or seal on any railroad car, with the intent to commit a felony or theft.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) Charging a person for a violation of Subsection (2) does not preclude charging the person for any other offense.

Amended by Chapter 111, 2023 General Session

**76-6-205 Manufacture or possession of instrument for burglary or theft.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits manufacture or possession of an instrument for burglary or theft if the actor manufactures or possesses any instrument, tool, device, article, or other thing adapted, designed, or commonly used in advancing or facilitating the commission of any offense under circumstances manifesting an intent to use or knowledge that another person intends to use the same in the commission of a burglary or theft.
- (3) A violation of Subsection (2) is a class B misdemeanor.

Amended by Chapter 111, 2023 General Session

**76-6-206 Criminal trespass.**

- (1)
  - (a) As used in this section:
    - (i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.
    - (ii) "Graffiti" means the same as that term is defined in Section 76-6-101.
    - (iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means remaining on or over private property when:
      - (A) the private property or any portion of the private property is not open to the public; and
      - (B) the person operating the unmanned aircraft is not otherwise authorized to fly the unmanned aircraft over the private property or any portion of the private property.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding commercial obstruction:
  - (a) the actor enters or remains unlawfully on or causes an unmanned aircraft to enter and remain unlawfully over property and:
    - (i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti;
    - (ii) intends to commit any crime, other than theft or a felony; or
    - (iii) is reckless as to whether the actor's or unmanned aircraft's presence will cause fear for the safety of another;
  - (b) knowing the actor's or unmanned aircraft's entry or presence is unlawful, the actor enters or remains on or causes an unmanned aircraft to enter or remain unlawfully over property to which notice against entering is given by:
    - (i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;
    - (ii) fencing or other enclosure obviously designed to exclude intruders; or
    - (iii) posting of signs reasonably likely to come to the attention of intruders;
  - (c) the actor enters a condominium unit in violation of Section 57-8-7(8); or

- (d) the actor enters a sex-designated changing room in violation of Subsection 63G-31-302(3).
- (3)
- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) , (b), or (d) is a class B misdemeanor.
  - (b) The following is a class A misdemeanor:
    - (i) if a violation of Subsection (2)(a) or (b) is committed in a dwelling;
    - (ii) if a violation of Subsection (2)(d) is committed while also committing the offense of:
      - (A) lewdness under Section 76-9-702;
      - (B) lewdness involving a child under Section 76-9-702.5;
      - (C) voyeurism under Section 76-9-702.7; or
      - (D) loitering in a privacy space under Section 76-9-702.8; or
    - (iii) if a violation of Subsection (2)(d) is committed in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.
  - (c) A violation of Subsection (2)(c) is an infraction.
- (4) It is a defense to prosecution under this section that:
- (a) the property was at the time open to the public; and
  - (b) the defendant complied with all lawful conditions imposed on access to or remaining on the property.
- (5) In addition to an order for restitution under Section 77-38b-205, an actor who commits a violation of Subsection (2) may also be liable for:
- (a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or \$500, whichever is greater; and
  - (b) reasonable attorney fees not to exceed \$250, and court costs.
- (6) Civil damages under Subsection (5) may be collected in a separate action by the property owner or the owner's assignee.

Amended by Chapter 2, 2024 General Session

**76-6-206.1 Criminal trespass of abandoned or inactive mines.**

- (1)
- (a) For purposes of this section:
    - (i) "Abandoned or inactive mine" means an underground mine which is no longer open for access or no longer under excavation and has been clearly marked as closed or protected from entry.
    - (ii) "Burglary" means an offense described in Section 76-6-202, 76-6-203, or 76-6-204.
    - (iii) "Enter" means intrusion of the entire body.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits criminal trespass of an abandoned or inactive mine if, under circumstances not amounting to burglary, the actor:
- (a) intentionally enters and remains unlawfully in the underground workings of an abandoned or inactive mine; or
  - (b) intentionally and without authority removes, destroys, or tampers with any warning sign, covering, fencing, or other method of protection from entry placed on, around, or over any mine shaft, mine portal, or other abandoned or inactive mining excavation property.
- (3)
- (a) A violation of Subsection (2)(a) is a class B misdemeanor.
  - (b) A violation of Subsection (2)(b) is a class A misdemeanor.

Amended by Chapter 111, 2023 General Session

**76-6-206.2 Criminal trespass on state park lands.**

- (1)
  - (a) As used in this section:
    - (i) "Authorization" means specific written permission by, or contractual agreement with, the Division of State Parks.
    - (ii) "Criminal trespass" means the elements of the crime of criminal trespass, as set forth in Section 76-6-206.
    - (iii) "Division" means the Division of State Parks created in Section 79-4-201.
    - (iv) "State park lands" means all lands administered by the division.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits criminal trespass on state park lands and is liable for the civil damages prescribed in Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization, the actor:
  - (a) constructs improvements or structures on state park lands;
  - (b) uses or occupies state park lands for more than 30 days after the cancellation or expiration of authorization;
  - (c) knowingly or intentionally uses state park lands for commercial gain;
  - (d) intentionally or knowingly grazes livestock on state park lands, except as provided in Section 72-3-112; or
  - (e) remains, after being ordered to leave by a person with actual authority to act for the division, or by a law enforcement officer.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) A person does not commit criminal trespass if that person enters onto state park lands:
  - (a) without first paying the required fee; and
  - (b) for the sole purpose of pursuing recreational activity.
- (5)
  - (a) In addition to an order for restitution under Section 77-38b-205, an actor who commits any act described in Subsection (2) may also be liable for civil damages in the amount of three times the value of:
    - (i) damages resulting from a violation of Subsection (2);
    - (ii) the water, mineral, vegetation, improvement, or structure on state park lands that is removed, destroyed, used, or consumed without authorization;
    - (iii) the historical, prehistorical, archaeological, or paleontological resource on state park lands that is removed, destroyed, used, or consumed without authorization; or
    - (iv) the consideration which would have been charged by the division for unauthorized use of the land and resources during the period of trespass.
  - (b) Civil damages awarded under Subsection (5)(a):
    - (i) may be collected in a separate action by the division; and
    - (ii) shall be deposited into the State Park Fees Restricted Account as established in Section 79-4-402.

Amended by Chapter 111, 2023 General Session

**76-6-206.3 Criminal trespass on agricultural land or range land.**

- (1)
  - (a) As used in this section:



- (i) "Agricultural or range land" and "land" mean land as defined under Subsections (1)(a)(iv) and (v).
- (ii) "Authorization" means specific written permission by, or contractual agreement with, the owner or manager of the property.
- (iii) "Criminal trespass" means the elements of the crime of criminal trespass under Section 76-6-206.
- (iv) "Land in agricultural use" has the same meaning as in Section 59-2-502.
- (v)
  - (A) "Range land" means privately owned land that is not fenced or divided into lots and that is generally unimproved.
  - (B) "Range land" includes land used for livestock.
- (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits criminal trespass on agricultural or range land and is liable for the civil damages under Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization or a right under state law, the actor enters or remains on agricultural or range land regarding which notice prohibiting entry is given by:
  - (a) personal communication to the actor by the owner of the land, an employee of the owner, or a person with apparent authority to act for the owner;
  - (b) fencing or other form of enclosure a reasonable person would recognize as intended to exclude intruders; or
  - (c) posted signs or markers that would reasonably be expected to be seen by persons in the area of the borders of the land.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) In addition to an order for restitution under Section 77-38b-205, an actor who commits any violation of Subsection (2) may also be liable for:
  - (a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or \$500, whichever is greater;
  - (b) reasonable attorney fees not to exceed \$250; and
  - (c) court costs.
- (5) Civil damages under Subsection (4) may be collected in a separate action by the owner of the agricultural or range land or the owner's assignee.

Amended by Chapter 111, 2023 General Session

#### **76-6-206.4 Criminal trespass by long-term guest to a residence.**

- (1)
  - (a) As used in this section:
    - (i) "Burglary" means an offense described in Section 76-6-202, 76-6-203, or 76-6-204.
    - (ii) "Long-term guest" means an individual who is not a tenant, nor the immediate family member of an owner or tenant, but who is given express or implied permission by an owner or tenant of the residence or someone with apparent authority to act for an owner or tenant to enter a portion of a residence or temporarily occupy a portion of a residence:
      - (A) for a period of time longer than 48 hours; and
      - (B) without providing the owner or tenant of the residence compensation or entering into an agreement that the individual provide labor in lieu of providing the owner or primary occupant compensation for occupying the residence.
    - (iii) "Residence" means an improvement to real property used or occupied as a primary or secondary dwelling.

- (iv) "Tenant" means a person who has the right to occupy a residence under a rental agreement or lease, or has a tenancy by operation of law.
- (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2)
  - (a) Except as provided in Subsection (2)(b), a long-term guest commits criminal trespass of a residence if the long-term guest, in circumstances not amounting to burglary, remains in a residence after receiving notice to leave the residence from:
    - (i) an owner;
    - (ii) a tenant; or
    - (iii) someone with apparent authority to act for an owner or a tenant.
  - (b) A long-term guest does not commit criminal trespass if:
    - (i) the long-term guest has express permission to remain in the residence from a separate owner or tenant; and
    - (ii) the express permission is not:
      - (A) revoked by the owner or tenant described in Subsection (2)(b)(i); or
      - (B) rendered void under Subsection (2)(c).
  - (c) The express permission described in Subsection (2)(b) is void if:
    - (i) the long-term guest or a visitor of the long-term guest:
      - (A) uses or distributes illegal drugs at the residence;
      - (B) distributes alcohol to a minor at the residence;
      - (C) commits a crime against a person or property at the residence; or
      - (D) commits a behavior that threatens or substantially endangers the security, safety, well-being, or health of other persons at the residence or threatens or damages property at the residence; or
    - (ii) the long-term guest commits a felony after occupying the residence, regardless of whether the long-term guest enters into a plea agreement for a lower offense and regardless of where the felony takes place.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) Before a law enforcement officer escorts a long-term guest from a residence for a violation of Subsection (2), the law enforcement officer shall provide the long-term guest a reasonable time for the long-term guest to collect the long-term guest's personal belongings.

Amended by Chapter 223, 2024 General Session

**76-6-206.5 Cutting, destroying, or rendering ineffective fencing of agricultural or range land.**

- (1) Terms defined in Sections 76-1-101.5, 76-6-201, and 76-6-206.3 apply to this section.
- (2) An actor commits cutting, destroying, or rendering ineffective the fencing of agricultural or range land if the person willfully cuts, destroys, or renders ineffective any fencing or other form of enclosure a reasonable person would recognize as intended to exclude intruders.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) In addition to an order for restitution under Section 77-38b-205, an actor who commits a violation of Subsection (2) may also be liable for:
  - (a) statutory damages in the amount of \$500;
  - (b) reasonable attorney fees not to exceed \$250; and
  - (c) court costs.
- (5) Civil damages under Subsection (4) may be collected in a separate action by the owner of the agricultural or range land or the owner's assignee.

Enacted by Chapter 111, 2023 General Session

**76-6-206.6 Criminal trespass on private property for recreational purposes related to use of public waters.**

- (1)
  - (a) As used in this section:
    - (i) "Bank" means the land within three feet of a public water.
    - (ii) "Private property" means the bed or bank of a non-navigable freshwater stream or river that flows through privately owned land and is privately owned.
    - (iii) "Private property to which access is restricted" means the same as that term is defined in Section 73-29-102.
    - (iv) "Recreational purpose" includes one or more of the following:
      - (A) hunting;
      - (B) fishing;
      - (C) swimming;
      - (D) skiing;
      - (E) snowshoeing;
      - (F) camping;
      - (G) picnicking;
      - (H) hiking;
      - (I) studying nature;
      - (J) engaging in water sports;
      - (K) mountain biking; or
      - (L) viewing or enjoying historical, archaeological, scenic, or scientific sites.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor is guilty of criminal trespass if for recreational purposes, under circumstances not amounting to a greater offense, and without authorization or a right under state law:
  - (a) the actor touches or remains unlawfully on private property to which access is restricted in violation of Section 73-29-201 and:
    - (i) intends to cause annoyance or injury to a person or damage to property;
    - (ii) intends to commit a crime, other than theft or a felony; or
    - (iii) is reckless as to whether the actor's presence will cause fear for the safety of another; or
  - (b) knowing the actor's touching or presence is unlawful, the actor touches or remains on private property to which notice against entering is given by:
    - (i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;
    - (ii) fencing or other enclosure obviously designed to exclude intruders; or
    - (iii) posting of signs reasonably likely to come to the attention of intruders.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) It is a defense to prosecution under this section that:
  - (a)
    - (i) the private property was at the time open to the public; and
    - (ii) the actor complied with all lawful conditions imposed on access to or remaining on the private property;
  - (b) the actor acted in compliance with an express easement; or
  - (c) the actor touched the private property as allowed by Section 73-29-202.
- (5) In addition to an order for restitution under Section 77-38b-205, an actor who violates Subsection (2) is also liable for:

- (a) statutory damages in the amount of the greater of:
    - (i) three times the value of damages resulting from the violation of Subsection (2); or
    - (ii) \$500;
  - (b) reasonable attorney fees not to exceed \$250; and
  - (c) court costs.
- (6) Civil damages under Subsection (5) may be collected in a separate action by the private property owner or the owner's assignee.

Enacted by Chapter 474, 2023 General Session

### **Part 3**

### **Robbery**

#### **76-6-301 Robbery.**

- (1)
- (a) As used in this section, an act is considered to be "in the course of committing a theft or unauthorized possession of property" if the act occurs:
    - (i) in the course of an attempt to commit theft or unauthorized possession of property;
    - (ii) in the commission of theft or unauthorized possession of property; or
    - (iii) in the immediate flight after the attempt or commission.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits robbery if the actor:
- (a) unlawfully and intentionally takes or attempts to take personal property in the possession of an individual from the individual's person, or immediate presence, against the individual's will, by means of force or fear, and with a purpose or intent to deprive the individual permanently or temporarily of the personal property; or
  - (b) intentionally or knowingly uses force or fear of immediate force against an individual in the course of committing a theft or unauthorized possession of property.
- (3) A violation of Subsection (2) is a second degree felony.

Amended by Chapter 111, 2023 General Session

#### **76-6-302 Aggravated robbery.**

- (1)
- (a) As used in this section, an act is considered to be "in the course of committing a robbery" if the act occurs in an attempt to commit, during the commission of, or in the immediate flight after the attempt or commission of a robbery.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated robbery if in the course of committing a robbery, the actor:
- (a) uses or threatens to use a dangerous weapon;
  - (b) causes serious bodily injury to another individual; or
  - (c) takes or attempts to take an operable motor vehicle.
- (3) A violation of Subsection (2) is a first degree felony.

Amended by Chapter 111, 2023 General Session

## **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

## **Part 5**

### **Fraud**

#### **76-6-501 Definitions -- Forgery.**

- (1)
  - (a) As used in this section:
    - (i) "Authentication feature" means any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified.
    - (ii) "Document-making implement" means any implement, impression, template, computer file, computer disc, electronic device, computer hardware or software, or scanning, printing, or laminating equipment that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement.
    - (iii) "False authentication feature" means an authentication feature that:
      - (A) is genuine in origin but that, without the authorization of the issuing authority, has been tampered with or altered for purposes of deceit;

- (B) is genuine, but has been distributed, or is intended for distribution, without the authorization of the issuing authority and not in connection with a lawfully made identification document, document-making implement, or means of identification to which the authentication feature is intended to be affixed or embedded by the issuing authority; or
- (C) appears to be genuine, but is not.
- (iv) "False identification document" means a document of a type intended or commonly accepted for the purposes of identification of individuals, and that:
  - (A) is not issued by or under the authority of a governmental entity or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit; and
  - (B) appears to be issued by or under the authority of a governmental entity.
- (v) "Governmental entity" means the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization, or a quasi-governmental organization.
- (vi) "Identification document" means a document made or issued by or under the authority of a governmental entity, which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.
- (vii) "Issuing authority" means:
  - (A) any governmental entity that is authorized to issue identification documents, means of identification, or authentication features; or
  - (B) a business organization or financial institution or its agent that issues a financial transaction card as defined in Section 76-6-506.
- (viii) "Means of identification" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including:
  - (A) name, social security number, date of birth, government issued driver license or identification number, alien registration number, government passport number, or employer or taxpayer identification number;
  - (B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation; or
  - (C) unique electronic identification number, address, or routing code.
- (ix) "Personal identification card" means an identification document issued by a governmental entity solely for the purpose of identification of an individual.
- (x) "Produce" includes altering, authenticating, or assembling.
- (xi) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States.
- (xii) "Traffic" means to:
  - (A) transport, transfer, or otherwise dispose of an item to another, as consideration for anything of value; or
  - (B) make or obtain control of with intent to transport, transfer, or otherwise dispose of an item to another.
- (xiii) "Writing" includes printing, electronic storage or transmission, or any other method of recording valuable information including forms such as:
  - (A) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any other symbols of value, right, privilege, or identification;
  - (B) a security, revenue stamp, or any other instrument or writing issued by a government or any agency; or

- (C) a check, an issue of stocks, bonds, or any other instrument or writing representing an interest in or claim against property, or a pecuniary interest in or claim against any person or enterprise.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits forgery if, with purpose to defraud anyone, or with knowledge that the actor is facilitating a fraud to be perpetrated by anyone, the actor:
  - (a) alters any writing of another person without the person's authority or utters the altered writing; or
  - (b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any writing so that the writing or the making, completion, execution, authentication, issuance, transference, publication, or utterance:
    - (i) purports to be the act of another person, whether the person is existent or nonexistent;
    - (ii) purports to be an act on behalf of another party with the authority of that other party; or
    - (iii) purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when an original did not exist.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor signs his own name to the writing if the actor does not have authority to make, complete, execute, authenticate, issue, transfer, publish, or utter the writing on behalf of the party for whom the actor purports to act.
- (5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11b, Forfeiture of Seized Property.
- (7) The court shall order, in addition to the penalty prescribed for any person convicted of a violation of this section, the forfeiture and destruction or other disposition of all illicit authentication features, identification documents, false transaction cards, document-making implements, or means of identification.

Amended by Chapter 111, 2023 General Session

Amended by Chapter 448, 2023 General Session

#### **76-6-501.5 Producing or transferring false identification.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-501 apply to this section.
- (2) An actor commits producing or transferring a false identification document if the actor:
  - (a) knowingly and without lawful authority produces, attempts, or conspires to produce an identification document, authentication feature, or a false identification document that is or appears to be issued by or under the authority of an issuing authority;
  - (b) transfers, or possesses with intent to transfer, an identification document, authentication feature, or a false identification document knowing that the document or feature was stolen or produced without lawful authority;
  - (c) produces, transfers, or possesses a document-making implement or authentication feature with the intent that the document-making implement or the authentication feature be used in the production of a false identification document or another document-making implement or authentication feature; or
  - (d) traffics in false or actual authentication features for use in false identification documents, document-making implements, or means of identification.

- (3) A violation of Subsection (2) is a second degree felony.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.
- (6) The court shall order, in addition to the penalty prescribed for a person convicted of a violation of this section, the forfeiture and destruction or other disposition of all illicit authentication features, identification documents, false transaction cards, document-making implements, or means of identification.

Enacted by Chapter 111, 2023 General Session

**76-6-502 Possession of forged writing or device for a forgery writing.**

- (1)
  - (a) As used in this section:
    - (i) "Device" means any equipment, mechanism, material, or program.
    - (ii) "Writing" means the same as that term is defined in Section 76-6-501.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor who, with intent to defraud, knowingly possesses a writing that is a forgery under Section 76-6-501 or 76-6-501.5, or who with intent to defraud knowingly possesses a device for making a writing that is a forgery under Section 76-6-501 or 76-6-501.5, commits possession of a forged writing or device for making a forgery writing.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-503.5 Wrongful liens.**

- (1)
  - (a) As used in this section, "lien" means:
    - (i) an instrument or document filed pursuant to Section 70A-9a-516;
    - (ii) a nonconsensual common law document as defined in Section 38-9-102;
    - (iii) a wrongful lien as defined in Section 38-9-102; or
    - (iv) any instrument or document that creates or purports to create a lien or encumbrance on an owner's interest in real or personal property or a claim on another's assets.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits the crime of wrongful lien if the actor knowingly makes, utters, records, or files a lien:
  - (a) having no objectively reasonable basis to believe that the actor has a present and lawful property interest in the property or a claim on the assets; or

- (b) if the actor files the lien in violation of a civil wrongful lien injunction pursuant to Title 38, Chapter 9a, Wrongful Lien Injunctions.
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.
  - (b) If an actor has been previously convicted of an offense under this section or Section 76-6-503.6, a violation of Subsection (2) is a second degree felony.
- (4) This section does not prohibit prosecution for any act in violation of Section 76-8-414 or for any offense greater than an offense under this section.
- (5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-503.6 Fraudulent handling of recordable writings.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-503.5 apply to this section.
- (2) An actor commits fraudulent handling of recordable writings if the actor:
  - (a) has intent to deceive or injure; and
  - (b) falsifies, destroys, removes, records, or conceals any will, deed, mortgage, security instrument, lien, or other writing for which the law provides public recording.
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.
  - (b) If an actor has been previously convicted of an offense under this section or Section 76-6-503.5, a violation of Subsection (2) is a second degree felony.
- (4) This section does not prohibit prosecution for any act in violation of Section 76-8-414 or for any offense greater than an offense under this section.
- (5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Enacted by Chapter 111, 2023 General Session

**76-6-503.7 Records filed with intent to harass or defraud.**

- (1)
  - (a) As used in this section, "filing office" means the same as that term is defined in Section 70A-9a-513.5.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits filing a record with intent to harass or defraud if:
  - (a) the actor causes a record to be communicated to the filing office for filing;
  - (b) the actor is not authorized to file the record under Section 70A-9a-509, 70A-9a-708, or 70A-9a-807;

- (c) the record is not related to an existing or anticipated transaction that is or will be governed by Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions; and
- (d) the record is filed knowingly or intentionally to:
  - (i) harass the person identified as the debtor in the record; or
  - (ii) defraud the person identified as the debtor in the record.
- (3)
  - (a) A violation of Subsections (2)(a), (b), (c), and (d)(i) is a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.
  - (b) A violation of Subsections (2)(a), (b), (c), and (d)(ii) is a third degree felony.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

#### **76-6-504 Tampering with records.**

- (1)
  - (a) As used in this section, "writing" means the same as that term is defined in Section 76-6-501.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits tampering with records if the actor:
  - (a) having no privilege to do so, knowingly falsifies, destroys, removes, or conceals any writing, other than the writings enumerated in Section 76-6-503.5 for which the law provides public recording or any record, public or private; and
  - (b) executes an action described in Subsection (2)(a) with intent to:
    - (i) deceive or injure any person; or
    - (ii) conceal any wrongdoing.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

#### **76-6-505 Issuing a bad check or draft -- Presumption.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
  - (a)
    - (i) An actor commits issuing a bad check or draft if:
      - (A) the actor issues or passes a check or draft for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor, or rent;
      - (B) the actor knows the check or draft will not be paid by the drawee; and

- (C) payment is refused by the drawee.
- (ii) For purposes of this Subsection (2)(a), an actor who issues a check or draft for which payment is refused by the drawee is presumed to know the check or draft would not be paid if the actor had no account with the drawee at the time of issue.
- (b) An actor commits issuing a bad check or draft if:
  - (i) the actor issues or passes a check or draft for:
    - (A) the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value; or
    - (B) paying for any services, wages, salary, labor, or rent;
  - (ii) payment of the check or draft is legally refused by the drawee; and
  - (iii) the actor fails to make good and actual payment to the payee in the amount of the refused check or draft within 14 days of the actor receiving actual notice of the check or draft's nonpayment.
- (3) A violation of Subsection (2)(a) or (b) is punished as follows:
  - (a) if the check or draft or series of checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that is less than \$500, the offense is a class B misdemeanor;
  - (b) if the check or draft or checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that is or exceeds \$500 but is less than \$1,500, the offense is a class A misdemeanor;
  - (c) if the check or draft or checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that is or exceeds \$1,500 but is less than \$5,000, the offense is a third degree felony; or
  - (d) if the check or draft or checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that is or exceeds \$5,000, the offense is a second degree felony.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

#### **76-6-506 Financial transaction card offenses -- Definitions.**

As used in Sections 76-6-506.2, 76-6-506.3, 76-6-506.6, 76-6-506.8, and 76-6-506.9:

- (1) "Authorized credit card merchant" means a person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a financial transaction card by a card holder and to present valid credit card sales drafts to the issuer for payment.
- (2) "Automated banking device" means any machine which, when properly activated by a financial transaction card or a personal identification code, may be used for any of the purposes for which a financial transaction card may be used.
- (3) "Card holder" means any person or organization named on the face of a financial transaction card to whom or for whose benefit a financial transaction card is issued.
- (4) "Credit card sales draft" means any sales slip, draft, or other written or electronic record of a sale of money, goods, services, or anything else of value made or purported to be made to or at the request of a card holder with a financial transaction card, financial transaction card



credit number, or personal identification code, whether the record of the sale or purported sale is evidenced by a sales draft, voucher, or other similar document in writing or electronically recorded and transmitted.

(5) "Financial transaction card" means:

- (a) any credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card, or any other card, issued by an issuer for the use of the card holder in obtaining money, goods, services, or anything else of value on credit, or in certifying or guaranteeing to a person or business the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of the person or business; or
- (b) any instrument or device used in providing the card holder access to a demand or time deposit account for the purpose of making deposits of money or checks in the account, or withdrawing funds from the account in the form of money, money orders, travelers' checks, or other form representing value, or transferring funds from any demand or time deposit account to any credit card account in full or partial satisfaction of any outstanding balance existing in the credit card account.

(6) "Issuer" means a business organization or financial institution or its agent that issues a financial transaction card.

(7) "Personal identification code" means any numerical or alphabetical code assigned to a card holder by the issuer to permit the authorized electronic use of the holder's financial transaction card.

Amended by Chapter 111, 2023 General Session

#### **76-6-506.2 Unlawful use of financial transaction card.**

(1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.

(2) An actor commits unlawful use of financial transaction card if the actor:

- (a) knowingly uses a revoked, expired, stolen, or fraudulently obtained financial transaction card to obtain or attempt to obtain credit, goods, property, or services;
- (b) knowingly, with the intent to defraud, uses a financial transaction card, credit number, personal identification code, or any other information contained on the card or in the account from which the card is issued, to obtain or attempt to obtain credit, goods, or services;
- (c) knowingly, with the intent to defraud, uses a financial transaction card to willfully exceed an authorized credit line by \$500 or more, or by 50% or more of the line of credit, whichever is greater; or
- (d) knowingly, with the intent to defraud, presents or causes to be presented to the issuer or an authorized credit card merchant, for payment or collection, any credit card sales draft, if:
  - (i) the draft is counterfeit or fictitious;
  - (ii) the purported sales evidenced by any credit card sales draft did not take place;
  - (iii) the purported sale was not authorized by the card holder; or
  - (iv) the items or services purported to be sold as evidenced by the credit card sales drafts are not delivered or rendered to the card holder or person intended to receive them.

(3)

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

- (i) a class B misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is less than \$500;
- (ii) a class A misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;

- (iii) a third degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; or
- (iv) a second degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds \$5,000.
- (b) Multiple violations of Subsection (2)(a) may be aggregated into a single offense, and the degree of the offense is determined by the total value of all property, money, or things obtained or attempted to be obtained through the multiple violations.
- (4) The court shall make appropriate findings in any prosecution under this section that the card holder did not commit the crime.
- (5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-506.3 Unlawful acquisition, possession, or transfer of financial transaction card.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.
- (2) An actor commits unlawful acquisition, possession, or transfer of a financial transaction card if the actor:
  - (a) under circumstances that do not constitute a violation of Subsection (2)(b):
    - (i) acquires a financial transaction card from another without the consent of the card holder or the issuer;
    - (ii) receives a financial transaction card with intent to use the financial transaction card in violation of Section 76-6-506.2;
    - (iii) sells or transfers a financial transaction card to a person with knowledge that the financial transaction card will be used in violation of Section 76-6-506.2;
  - (iv)
    - (A) acquires a financial transaction card that the individual knows was lost, mislaid, stolen, or delivered under a mistake as to the identity or address of the card holder; and
    - (B)
      - (I) retains possession with intent to use the financial transaction card in violation of Section 76-6-506.2; or
      - (II) sells or transfers the financial transaction card to a person with knowledge that the financial transaction card will be used in violation of Section 76-6-506.2; or
  - (v) possesses, sells, or transfers any information necessary for the use of a financial transaction card, including the credit number of the card, the expiration date of the card, or the personal identification code related to the card:
    - (A)
      - (I) without the consent of the card holder or the issuer; or
      - (II) with knowledge that the information has been acquired without consent of the card holder or the issuer; and
    - (B) with intent to use the information in violation of Section 76-6-506.2; or
- (b) possesses, sells, or transfers any information necessary for the use of 100 or more financial transaction cards, including the credit number of a card, the expiration date of a card, or the personal identification code related to a card:

- (i) with intent to use the information in violation of Section 76-6-506.2; or
  - (ii) with knowledge that the information will be used by another in violation of Section 76-6-506.2.
- (3)
- (a) A violation of Subsection (2)(a) is a third degree felony.
  - (b) A violation of Subsection (2)(b) is a second degree felony.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-506.6 Financial transaction card offenses -- Unauthorized factoring of credit card sales drafts.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.
- (2) An actor commits an unauthorized factoring of credit card sales draft if the actor acts:
- (a) knowingly, with intent to defraud;
  - (b) without the express authorization of the issuer; and
  - (c) to employ, solicit, or otherwise cause an authorized credit card merchant, or for the authorized credit card merchant himself or herself, to present any credit card sales draft to the issuer:
    - (i) for payment pertaining to any sale or purported sale of goods or services; and
    - (ii) the sale or purported sale was not made by the authorized credit card merchant in the ordinary course of business.
- (3)
- (a) A violation of Subsection (2) is:
    - (i) a class B misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is less than \$500;
    - (ii) a class A misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;
    - (iii) a third degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; or
    - (iv) a second degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds \$5,000.
  - (b) Multiple violations of Subsection (2) may be aggregated into a single offense, and the degree of the offense is determined by the total value of all property, money, or things obtained or attempted to be obtained through the multiple violations.
- (4) The court shall make appropriate findings in any prosecution under this section that the card holder did not commit the crime.
- (5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-506.7 Obtaining encoded information on a financial transaction card with the intent to defraud the issuer, holder, or merchant.**

- (1)
- (a) As used in this section:
    - (i) "Card holder" means the same as that term is defined in Section 76-6-506.
    - (ii) "Financial transaction card" or "card" means any credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card, or any other card, issued by an issuer for the use of the card holder in:
      - (A) obtaining money, goods, services, or anything else of value on credit; or
      - (B) certifying or guaranteeing to a merchant the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other thing of value from the merchant.
    - (iii)
      - (A) "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of the owner or operator.
      - (B) "Merchant" also means a person:
        - (I) who receives from a card holder, or a third person the merchant believes to be the card holder, a financial transaction card or information from a financial transaction card, or what the merchant believes to be a financial transaction card or information from a card; and
        - (II) who accepts the financial transaction card or information from a card under Subsection (1)(a)(ii)(B) as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other thing of value from the merchant.
    - (iv) "Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe of a different financial transaction card.
    - (v) "Scanning device" means a scanner, reader, or any other electronic device used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a financial transaction card.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.
- (2) An actor commits obtaining encoded information on a financial transaction card with the intent to defraud the issuer, holder, or merchant if the actor uses:
- (a) a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a financial transaction card:
    - (i) without the permission of the card holder; and
    - (ii) with intent to defraud the card holder, the issuer, or a merchant; or
  - (b) a reencoder to place information encoded on the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe of a different card:
    - (i) without the permission of the authorized user of the card from which the information is being reencoded; and
    - (ii) with the intent to defraud the card holder, the issuer, or a merchant.
- (3)
- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.

- (b) An actor who has been convicted previously of an offense under Subsection (2) is guilty of a second degree felony upon a second conviction and any subsequent conviction for the offense.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-506.8 False application for financial transaction card.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.
- (2) An actor commits false application for a card if the actor:
  - (a) knowingly, with the intent to defraud:
    - (i) makes application for a financial transaction card to an issuer; and
    - (ii) makes or causes to be made a false statement or report of the actor's name, occupation, financial condition, assets, or personal identifying information; or
  - (b) willfully and substantially undervalues or understates any indebtedness for the purposes of influencing the issuer to issue the financial transaction card.
- (3) A violation of Subsection (2) is:
  - (a) a class B misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is less than \$500;
  - (b) a class A misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;
  - (c) a third degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; or
  - (d) a second degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds \$5,000.
- (4) The court shall make appropriate findings in any prosecution under this section that the card holder did not commit the crime.
- (5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Enacted by Chapter 111, 2023 General Session

**76-6-506.9 Use of fraudulent financial transaction card.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.
- (2) An actor commits fraudulent use of a financial transaction card if the actor knowingly uses a false, fictitious, altered, or counterfeit financial transaction card to obtain or attempt to obtain credit, goods, property, or services.
- (3)
  - (a) A violation of Subsection (2) is:

- (i) a class B misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is less than \$500;
- (ii) a class A misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;
- (iii) a third degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; or
- (iv) a second degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds \$5,000.
- (b) Multiple violations of Subsection (2) may be aggregated into a single offense, and the degree of the offense is determined by the total value of all property, money, or things obtained or attempted to be obtained through the multiple violations.
- (4) The court shall make appropriate findings in any prosecution under this section that the card holder did not commit the crime.
- (5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Enacted by Chapter 111, 2023 General Session

**76-6-507 Deceptive business practices.**

- (1)
  - (a) As used in this section:
    - (i) "Adulterated" means varying from the standard of composition or quality prescribed, or pursuant to any statute providing criminal penalties for a variance, or set by established commercial usage.
    - (ii) "Mislabeled" means varying from the standard of truth or disclosure in labeling prescribed by or pursuant to any statute providing criminal penalties for a variance, or set by established commercial usage.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits deceptive business practices if the actor, in the course of business:
  - (a) uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity;
  - (b) takes or attempts to take more than the represented quantity of any commodity or service when as buyer the actor furnishes the weight or measure; or
  - (c) sells, offers, or exposes for sale adulterated or mislabeled commodities.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) It is an affirmative defense to prosecution under this section that the defendant's conduct was not knowing or reckless.
- (5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-508 Bribery of or receiving bribe by person in the business of selection, appraisal, or criticism of goods or services.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits bribery or receiving a bribe if the actor:
  - (a) without the consent of the employer or principal, and contrary to the interests of the employer or principal:
    - (i) confers, offers, or agrees to confer upon the employee, agent, or fiduciary of an employer or principal any benefit with the purpose of influencing the conduct of the employee, agent, or fiduciary in relating to his employer's or principal's affairs; or
    - (ii) as an employee, agent, or fiduciary of an employer or principal, solicits, accepts, or agrees to accept any benefit from another upon an agreement or understanding that such benefit will influence the actor's conduct in relation to the actor's, employer's, or principal's affairs; or
  - (b)
    - (i) holds the actor's self out to the public as being engaged in the business of making disinterested selection, appraisal, or criticism of goods or services; and
    - (ii) solicits, accepts, or agrees to accept any benefit to influence the actor's selection, appraisal, or criticism.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) This section does not apply to inducements made or accepted solely for the purpose of causing a change in employment by an employee, agent, or fiduciary.
- (5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-509 Bribery of a labor official.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits bribery of a labor official if the actor:
  - (a) offers, confers, or agrees to confer upon a labor official any benefit; and
  - (b) has intent to influence the labor official in respect to any of the labor official's acts, decisions, or duties as a labor official.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-510 Receiving a bribe by a labor official.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) A labor official commits receiving a bribe by a labor official if the labor official solicits, accepts, or agrees to accept any benefit from another person upon an agreement or understanding that the benefit will influence the labor official in any of the labor official's acts, decisions, or duties as a labor official.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-511 Defrauding of creditors.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits defrauding of creditors if the actor:
  - (a) destroys, removes, conceals, encumbers, transfers, or otherwise deals with property subject to a security interest with a purpose to hinder enforcement of that interest; or
  - (b) knowing that proceedings have been or are about to be instituted for the appointment of a person entitled to administer property for the benefit of creditors:
    - (i) destroys, removes, conceals, encumbers, transfers, or otherwise deals with any property with a purpose to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors; or
    - (ii) presents to any creditor or to an assignee for the benefit of creditors, orally or in writing, any statement relating to the debtor's estate, knowing that a material part of such statement is false.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-512 Acceptance of deposit by insolvent financial institution.**

- (1)
  - (a) As used in this section, "financial institution" means the same as that term is defined in Section 7-1-103.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits acceptance of a deposit by an insolvent financial institution if:
  - (a) as an officer, manager, or other person participating in the direction of a financial institution, as defined in Section 7-1-103, the actor receives or permits receipt of a deposit or other



- investment knowing that the institution is or is about to become unable, from any cause, to pay its obligations in the ordinary course of business; and
- (b) the actor knows that the person making the payment to the institution is unaware of such present or prospective inability.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-513 Unlawful dealing of property by a fiduciary.**

- (1)
  - (a) As used in this section:
    - (i) "Fiduciary" means the same as that term is defined in Section 75A-1-201.
    - (ii) "Financial institution" means "depository institution" and "trust company" as defined in Section 7-1-103.
    - (iii) "Governmental entity" is as defined in Section 63G-7-102.
    - (iv) "Person" does not include a financial institution whose fiduciary functions are supervised by the Department of Financial Institutions or a federal regulatory agency.
    - (v) "Property" means the same as that term is defined in Section 76-6-401.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits unlawfully dealing with property by a fiduciary if the actor:
  - (a) deals with property:
    - (i) that has been entrusted to the actor as a fiduciary, or property of a governmental entity, public money, or of a financial institution; and
    - (ii) in a manner which:
      - (A) the actor knows is a violation of the actor's duty; and
      - (B) involves substantial risk of loss or detriment to the property owner or to a person for whose benefit the property was entrusted; or
  - (b) acting as a fiduciary pledges:
    - (i) as collateral for a personal loan, or as collateral for the benefit of some party, other than the owner or the person for whose benefit the property was entrusted, the property that has been entrusted to the fiduciary; and
    - (ii) without permission of the owner of the property or some other authorized person.
- (3)
  - (a) A violation of Subsection (2)(a) is:
    - (i) a second degree felony if the:
      - (A) value of the property is or exceeds \$5,000; or
      - (B) property is stolen from the person of another;
    - (ii) a third degree felony if:
      - (A) the value of the property is or exceeds \$1,500 but is less than \$5,000;
      - (B) 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:

- (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)(a)(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)(a)(ii)(B)(I) through (3)(a)(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 property 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)(a)(ii)(B)(I) through (3)(a)(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 property stolen is less than \$500 and the theft is not an offense under Subsection (3)(a)(iii)(B).
- (b) A violation of Subsection (2)(b) is:
  - (i) a second degree felony if the value of the property wrongfully pledged is or exceeds \$5,000;
  - (ii) a third degree felony if the value of the property wrongfully pledged is or exceeds \$1,500 but is less than \$5,000;
  - (iii) a class A misdemeanor if the value of the property is or exceeds \$500, but is less than \$1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent to commit theft, or unlawful dealing with property by a fiduciary; or
  - (iv) a class B misdemeanor if the value of the property is less than \$500.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 364, 2024 General Session

#### **76-6-514 Unlawful influence of a contest.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits unlawful influence of a contest if the actor:
  - (a) with a purpose to influence any participant or prospective participant not to give the participant's or prospective participant's best efforts in a publicly exhibited contest, confers or offers or agrees to confer any benefit upon or threatens any injury to a participant or prospective participant;
  - (b) with a purpose to influence an official in a publicly exhibited contest to perform the official's duties improperly, confers or offers or agrees to confer any benefit upon or threatens any injury to such official;
  - (c) with a purpose to influence the outcome of a publicly exhibited contest, tampers with any person, animal, or thing contrary to the rules and usages purporting to govern the contest; or
  - (d) knowingly solicits, accepts, or agrees to accept any benefit, the giving of which would be criminal under Subsection (2)(a) or (b).

- (3) A violation of Subsection (2) is a third degree felony.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

#### **76-6-515 Using or making slugs.**

- (1)
  - (a) As used in this section:
    - (i) "Coin machine" means any mechanical or electronic device or receptacle designed to receive a coin or bill of a certain denomination, or a token made for the purpose, and, in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or a public or private service.
    - (ii) "Slug" means any object which, by virtue of its size, shape, or other quality, is capable of being inserted, deposited, or otherwise used in a coin machine as an improper substitute for a genuine coin, bill, or token.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits using or making slugs if the actor:
  - (a) with a purpose to defraud the supplier of property or a service offered or sold by means of a coin machine, inserts, deposits, or uses a slug in that machine; or
  - (b) makes, possesses, or disposes of a slug with the purpose of enabling a person to use it fraudulently in a coin machine.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

#### **76-6-516 Fraudulent conveyance of marital real estate.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits fraudulent conveyance of marital real estate if the actor:
  - (a) is married;
  - (b) falsely represents the actor as unmarried; and
  - (c) knowingly conveys or mortgages real estate situated in this state, without the assent or concurrence of the actor's spouse when such consent or concurrence is necessary to relinquish the spouse's inchoate statutory interest.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-517 Making a false credit report.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits making a false credit report if the actor knowingly makes a materially false or misleading written statement to obtain property or credit for himself or another.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-518 Criminal simulation.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits criminal simulation if, with intent to defraud another, the actor:
  - (a) makes or alters an object in whole or in part so that it appears to have value because of age, antiquity, rarity, source, or authorship that it does not have;
  - (b) sells, passes, or otherwise utters an object so made or altered;
  - (c) possesses an object so made or altered with intent to sell, pass, or otherwise utter it; or
  - (d) authenticates or certifies an object so made or altered as genuine or as different from what it is.
- (3) A violation of Subsection (2) is punishable as follows:
  - (a) if the value defrauded or intended to be defrauded is less than \$500, the offense is a class B misdemeanor;
  - (b) if the value defrauded or intended to be defrauded is or exceeds \$500 but is less than \$1,500, the offense is a class A misdemeanor;
  - (c) if the value defrauded or intended to be defrauded is or exceeds \$1,500 but is less than \$5,000, the offense is a third degree felony; or
  - (d) if the value defrauded or intended to be defrauded is or exceeds \$5,000, the offense is a second degree felony.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-520 Criminal usury.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits criminal usury if the actor knowingly engages in, or directly or indirectly provides financing for, the business of making loans at a higher rate of interest or consideration therefor than is authorized by law.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-521 Insurance fraud.**

- (1)
  - (a) As used in this section, "runner" means the same as that term is defined in Section 31A-31-102.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits a fraudulent insurance act if the actor with intent to deceive or defraud:
  - (a) presents or causes to be presented any oral or written statement or representation knowing that the statement or representation contains false or fraudulent information concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract, as part of or in support of:
    - (i) obtaining an insurance policy the insurer would otherwise not issue on the basis of underwriting criteria applicable to the person;
    - (ii) a scheme or artifice to avoid paying the premium that an insurer charges on the basis of underwriting criteria applicable to the person; or
    - (iii) a scheme or artifice to file an insurance claim for a loss that has already occurred;
  - (b) presents, or causes to be presented, any oral or written statement or representation:
    - (i)
      - (A) as part of or in support of a claim for payment or other benefit pursuant to an insurance policy, certificate, or contract; or
      - (B) in connection with any civil claim asserted for recovery of damages for personal or bodily injuries or property damage; and
    - (ii) knowing that the statement or representation contains false, incomplete, or fraudulent information concerning any fact or thing material to the claim;
  - (c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;
  - (d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees for professional services, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions;
  - (e) knowingly employs, uses, or acts as a runner for the purpose of committing a fraudulent insurance act;
  - (f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent insurance act;
  - (g) knowingly supplies false or fraudulent material information in any document or statement required by the Department of Insurance; or

- (h) knowingly fails to forward a premium to an insurer in violation of Section 31A-23a-411.1.
- (3)
- (a) A violation of Subsection (2)(a)(i) is a class A misdemeanor.
- (b) A violation of Subsections (2)(a)(ii) or (2)(b) through (2)(h) is:
- (i) a class B misdemeanor when the value of the property, money, or thing obtained or sought to be obtained is less than \$500;
  - (ii) a class A misdemeanor when the value of the property, money, or thing obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;
  - (iii) a third degree felony when the value of the property, money, or thing obtained or sought to be obtained is or exceeds \$1,500 but is less than \$5,000; or
  - (iv) a second degree felony when the value of the property, money, or thing obtained or sought to be obtained is or exceeds \$5,000.
- (c) A violation of Subsection (2)(a)(iii) is:
- (i) a class A misdemeanor if the value of the loss is less than \$1,500 or unable to be determined;
  - (ii) a third degree felony when the value of the loss is or exceeds \$1,500 but is less than \$5,000; or
  - (iii) a second degree felony when the value of the loss is or exceeds \$5,000.
- (4) A corporation or association is guilty of the offense of insurance fraud under the same conditions as those set forth in Section 76-2-204.
- (5) The determination of the degree of any offense under Subsections (2)(a)(ii) and (2)(b) through (2)(h) shall be measured by the total value of all property, money, or other things obtained or sought to be obtained by the fraudulent insurance act or acts described in Subsections (2)(a)(ii) and (2)(b) through (2)(h).
- (6) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (7) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-522 Equity skimming of a vehicle.**

- (1)
- (a) As used in this section:
- (i) "Actor" means a broker, dealer, or a person in collusion with a dealer or broker.
  - (ii) "Broker" means any person who, for compensation of any kind, arranges for the sale, lease, sublease, or transfer of a vehicle.
  - (iii) "Dealer" means any person engaged in the business of selling, leasing, or exchanging vehicles for compensation of any kind.
  - (iv) "Lease" means any grant of use or possession of a vehicle for consideration, with or without an option to buy.
  - (v) "Security interest" means an interest in a vehicle that secures payment or performance of an obligation.
  - (vi) "Transfer" means any delivery or conveyance of a vehicle to another from one person to another.

- (vii) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, or through the air or water, or over land and includes a manufactured home or mobile home as defined in Section 41-1a-102.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits equity skimming of a vehicle if the actor:
  - (a)
    - (i) transfers or arranges the transfer of a vehicle for consideration or profit; and
    - (ii) has not first obtained written authorization of the lessor or holder of the security interest; and
  - (b) knows or should have known the vehicle is subject to a lease or security interest.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) It is a defense to a violation of Subsection (2) if the defendant proves by a preponderance of the evidence that the lease obligation or security interest has been satisfied within 30 days following the transfer of the vehicle.
- (5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-523 Obstruction of the leasing of real property for natural resource or agricultural production.**

- (1)
  - (a) As used in this section:
    - (i) "Competitive process" includes public auction or other public competitive bidding process.
    - (ii) "Natural resource or agricultural production" means:
      - (A) the extraction or production of oil, gas, hydrocarbons, or other minerals;
      - (B) production for commercial purposes of crops, livestock, and livestock products, including grazing; or
      - (C) activities similar in purpose to those listed in Subsections (1)(a)(ii)(A) and (B).
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits obstruction of the leasing of real property for natural resource or agricultural production if the actor:
  - (a) bids for a lease as part of a competitive process for the lease;
  - (b) does not intend to pay for the lease at the time the actor makes the bid described in Subsection (2)(a); and
  - (c) does not pay the lessor in full for the lease as required by the lease agreement.
- (3) A violation of Subsection (2) is:
  - (a) a third degree felony; and
  - (b) subject to a minimum fine of not less than \$7,500.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**76-6-524 Falsifying information for preconstruction lien purposes.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits falsifying information for the purpose of obtaining priority of a preconstruction lien if the actor knowingly falsifies information for the purpose of obtaining priority of a preconstruction lien under Title 38, Chapter 1a, Preconstruction and Construction Liens.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session

**Part 6**  
**Retail Theft**

**76-6-601 Definitions.**

As used in this part:

- (1) "Merchandise" means any personal property displayed, held, or offered for sale by a merchant.
- (2) "Merchant" means an owner or operator of any retail mercantile establishment where merchandise is displayed, held, or offered for sale and includes the merchant's employees, servants, or agents.
- (3) "Minor" means any unmarried person under 18 years of age.
- (4) "Peace officer" has the same meaning as provided in Title 53, Chapter 13, Peace Officer Classifications.
- (5) "Premises of a retail mercantile establishment" includes, but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking lots or areas set aside for the benefit of those patrons of the retail mercantile establishment.
- (6) "Retail mercantile establishment" means any place where merchandise is displayed, held, or offered for sale to the public.
- (7) "Retail value" means the merchant's stated or advertised price of the merchandise.
- (8) "Shopping cart" means those push carts of the types which are commonly provided by grocery stores, drug stores, or other mercantile establishments, or markets for the use of the public in transporting commodities in stores and markets from the store to a place outside the store.
- (9) "Under-ring" means to cause the cash register or other sales recording device to reflect less than the retail value of the merchandise.

Amended by Chapter 111, 2023 General Session

**76-6-602 Retail theft.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.



- (2) An actor commits retail theft if the actor knowingly:
  - (a) takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment with the intention of:
    - (i) retaining the merchandise; or
    - (ii) depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of the merchandise;
  - (b)
    - (i) alters, transfers, or removes any label, price tag, marking, indicia of value, or any other markings which aid in determining value of any merchandise displayed, held, stored, or offered for sale, in a retail mercantile establishment; and
    - (ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of the merchandise;
  - (c) transfers any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment from the container in or on which the merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of the merchandise;
  - (d) under-rings with the intention of depriving the merchant of the retail value of the merchandise; or
  - (e) removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use, or benefit of the shopping cart.
- (3) A violation of Subsection (2) is:
  - (a) a second degree felony if the:
    - (i) value of the merchandise or shopping cart is or exceeds \$5,000;
    - (ii) merchandise stolen is a firearm or an operable motor vehicle; or
  - (b) a third degree felony if:
    - (i) the value of the merchandise is or exceeds \$1,500 but is less than \$5,000;
    - (ii) the merchandise 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 merchandise or shopping cart 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 merchandise or shopping cart is or exceeds \$500 but is less than \$1,500;
    - (B) the theft occurs in a retail mercantile establishment or on the premises of a retail mercantile establishment 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 retail mercantile establishment or premises of a retail mercantile establishment 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 merchandise or shopping cart stolen is or exceeds \$500 but is less than \$1,500;
  - (ii)
    - (A) the value of merchandise or shopping cart is less than \$500;
    - (B) the theft occurs in a retail mercantile establishment or premises of a retail mercantile establishment 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 retail mercantile establishment or premises of a retail mercantile establishment 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 merchandise or shopping cart 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)

#### **76-6-603 Detention of suspected violator by merchant -- Purposes.**

- (1) Any merchant who has probable cause to believe that a person has committed retail theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:
  - (a) to make reasonable inquiry as to whether such person has in his possession unpurchased merchandise and to make reasonable investigation of the ownership of such merchandise;
  - (b) to request identification;
  - (c) to verify such identification;
  - (d) to make a reasonable request of such person to place or keep in full view any merchandise such individual may have removed, or which the merchant has reason to believe he may have removed, from its place of display or elsewhere, whether for examination, purchase, or for any other reasonable purpose;
  - (e) to inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer;
  - (f) in the case of a minor, to inform a peace officer, the parents, guardian, or other private person interested in the welfare of that minor immediately, if possible, of this detention and to surrender custody of such minor to such person.
- (2) A merchant may make a detention as permitted herein off the premises of a retail mercantile establishment only if such detention is pursuant to an immediate pursuit of such person.

Amended by Chapter 306, 2007 General Session

#### **76-6-604 Defense to action by person detained.**

In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, trespass, or invasion of civil rights brought by any person detained by the merchant, it shall be a defense to such action that the merchant detaining such person had probable cause to believe that the person had committed retail theft and that the merchant acted reasonably under all circumstances.

Enacted by Chapter 78, 1979 General Session

**76-6-607 Report of arrest to division.**

Any arrest made for a violation of this part shall be reported by the appropriate jurisdiction to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103, which shall keep a record of the arrest together with the disposition of the arrest for purposes of inquiry by any law enforcement agency.

Amended by Chapter 263, 1998 General Session

**76-6-608 Theft detection shielding devices prohibited.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
- (2) An actor commits the unlawful shielding of a theft detection device if the actor knowingly:
  - (a) makes or possesses any container or device used for, intended for use for, or represented as having the purpose of shielding merchandise from any electronic or magnetic theft alarm sensor, with the intent to commit a theft of merchandise;
  - (b) sells, offers to sell, advertises, gives, transports, or otherwise transfers to another any container or device intended for use for or represented as having the purpose of shielding merchandise from any electronic or magnetic theft alarm sensor;
  - (c) possesses any tool or instrument designed to remove any theft detection device from any merchandise, with the intent to use the tool or instrument to remove any theft detection device from any merchandise without the permission of the merchant or the person owning or in possession of the merchandise; or
  - (d) intentionally removes a theft detection device from merchandise prior to purchase and without the permission of the merchant.
- (3)
  - (a) A violation of Subsection (2)(a), (b), or (c) is a class A misdemeanor.
  - (b) A violation of Subsection (2)(d) is a:
    - (i) class B misdemeanor if the value of the merchandise from which the theft detection device is removed is less than \$500; or
    - (ii) class A misdemeanor if the value of the merchandise from which the theft detection device is removed is or exceeds \$500.
- (4) A violation of Subsection (2) is a separate offense from any offense listed in Part 4, Theft, or Part 6, Retail Theft.
- (5) Criminal prosecutions under this section do not affect any person's right of civil action for redress for damages suffered as a result of any violation of this section.

Amended by Chapter 111, 2023 General Session

**Part 7**

## Utah Computer Crimes Act

### 76-6-702 Definitions.

As used in this part:

- (1) "Access" means to directly or indirectly use, attempt to use, instruct, communicate with, cause input to, cause output from, or otherwise make use of any resources of a computer, computer system, computer network, or any means of communication with any of them.
- (2) "Authorization" means having the express or implied consent or permission of the owner, or of the person authorized by the owner to give consent or permission to access a computer, computer system, or computer network in a manner not exceeding the consent or permission.
- (3) "Computer" means any electronic device or communication facility that stores, processes, transmits, or facilitates the transmission of data.
- (4) "Computer network" means:
  - (a) the interconnection of communication or telecommunication lines between:
    - (i) computers; or
    - (ii) computers and remote terminals; or
  - (b) the interconnection by wireless technology between:
    - (i) computers; or
    - (ii) computers and remote terminals.
- (5) "Computer property" includes electronic impulses, electronically produced data, information, financial instruments, software, or programs, in either machine or human readable form, any other tangible or intangible item relating to a computer, computer system, computer network, and copies of any of them.
- (6) "Computer system" means a set of related, connected or unconnected, devices, software, or other related computer equipment.
- (7) "Computer technology" includes:
  - (a) a computer;
  - (b) a computer network;
  - (c) computer hardware;
  - (d) a computer system;
  - (e) a computer program;
  - (f) computer services;
  - (g) computer software; or
  - (h) computer data.
- (8) "Confidential" means data, text, or computer property that is protected by a security system that clearly evidences that the owner or custodian intends that it not be available to others without the owner's or custodian's permission.
- (9) "Critical infrastructure" includes:
  - (a) a financial or banking system;
  - (b) any railroad, airline, airport, airway, highway, bridge, waterway, fixed guideway, or other transportation system intended for the transportation of persons or property;
  - (c) any public utility service, including a power, energy, gas, or water supply system;
  - (d) a sewage or water treatment system;
  - (e) a health care facility, as that term is defined in Section 26B-2-201;
  - (f) an emergency fire, medical, or law enforcement response system;
  - (g) a public health facility or system;
  - (h) a food distribution system;

- (i) a government computer system or network;
  - (j) a school; or
  - (k) other government facilities, operations, or services.
- (10) "Denial of service attack" means an attack or intrusion that is intended to disrupt legitimate access to, or use of, a network resource, a machine, or computer technology.
- (11) "Financial instrument" includes any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, electronic fund transfer, automated clearing house transaction, credit card, or marketable security.
- (12)
- (a) "Identifying information" means a person's:
    - (i) social security number;
    - (ii) driver license number;
    - (iii) nondriver governmental identification number;
    - (iv) bank account number;
    - (v) student identification number;
    - (vi) credit or debit card number;
    - (vii) personal identification number;
    - (viii) unique biometric data;
    - (ix) employee or payroll number;
    - (x) automated or electronic signature; or
    - (xi) computer password.
  - (b) "Identifying information" does not include information that is lawfully available from publicly available information, or from federal, state, or local government records lawfully made available to the general public.
- (13) "Information" does not include information obtained:
- (a) through use of:
    - (i) an electronic product identification or tracking system; or
    - (ii) other technology used by a retailer to identify, track, or price goods; and
  - (b) by a retailer through the use of equipment designed to read the electronic product identification or tracking system data located within the retailer's location.
- (14) "Interactive computer service" means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet or a system operated, or services offered, by a library or an educational institution.
- (15) "License or entitlement" includes:
- (a) licenses, certificates, and permits granted by governments;
  - (b) degrees, diplomas, and grades awarded by educational institutions;
  - (c) military ranks, grades, decorations, and awards;
  - (d) membership and standing in organizations and religious institutions;
  - (e) certification as a peace officer;
  - (f) credit reports; and
  - (g) another record or datum upon which a person may be reasonably expected to rely in making decisions that will have a direct benefit or detriment to another.
- (16) "Security system" means a computer, computer system, network, or computer property that has some form of access control technology implemented, such as encryption, password protection, other forced authentication, or access control designed to keep out unauthorized persons.
- (17) "Services" include computer time, data manipulation, and storage functions.

- (18) "Service provider" means a telecommunications carrier, cable operator, computer hardware or software provider, or a provider of information service or interactive computer service.
- (19) "Software" or "program" means a series of instructions or statements in a form acceptable to a computer, relating to the operations of the computer, or permitting the functioning of a computer system in a manner designed to provide results including system control programs, application programs, or copies of any of them.

Amended by Chapter 330, 2023 General Session

**76-6-703 Unlawful computer technology access or action or denial of service attack.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.
- (2) An actor commits unlawful computer technology access or action or denial of service attack if the actor:
  - (a) without authorization, or in excess of the actor's authorization, accesses or attempts to access computer technology if the access or attempt to access results in:
    - (i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure of computer technology;
    - (ii) interference with or interruption of:
      - (A) the lawful use of computer technology; or
      - (B) the transmission of data;
    - (iii) physical damage to or loss of real, personal, or commercial property;
    - (iv) audio, video, or other surveillance of another person; or
    - (v) economic loss to any person or entity;
  - (b) after accessing computer technology that the actor is authorized to access, knowingly takes or attempts to take unauthorized or unlawful action that results in:
    - (i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure of computer technology;
    - (ii) interference with or interruption of:
      - (A) the lawful use of computer technology; or
      - (B) the transmission of data;
    - (iii) physical damage to or loss of real, personal, or commercial property;
    - (iv) audio, video, or other surveillance of another person; or
    - (v) economic loss to any person or entity; or
  - (c) knowingly engages in a denial of service attack.
- (3) A violation of Subsection (2) is:
  - (a) a class B misdemeanor if:
    - (i) the economic loss or other loss or damage caused or the value of the money, property, or benefit obtained or sought to be obtained is less than \$500; or
    - (ii) the information obtained is not confidential;
  - (b) a class A misdemeanor if the economic loss or other loss or damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;
  - (c) a third degree felony if:
    - (i) the economic loss or other loss or damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds \$1,500 but is less than \$5,000;
    - (ii) the property or benefit obtained or sought to be obtained is a license or entitlement;
    - (iii) the damage is to the license or entitlement of another person;
    - (iv) the information obtained is confidential or identifying information; or

- (v) in gaining access the actor breaches or breaks through a security system; or
  - (d) a second degree felony if the economic loss or other loss or damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds \$5,000.
- (4)
- (a) It is an affirmative defense that the actor obtained access or attempted to obtain access:
    - (i) in response to, and for the purpose of protecting against or investigating, a prior attempted or successful breach of security of computer technology whose security the actor is authorized or entitled to protect, and the access attempted or obtained was no greater than reasonably necessary for that purpose; or
    - (ii) pursuant to a search warrant or a lawful exception to the requirement to obtain a search warrant.
  - (b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.
  - (c) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.
- (5)
- (a) An interactive computer service is not guilty of violating this section if a person violates this section using the interactive computer service and the interactive computer service did not knowingly assist the person to commit the violation.
  - (b) A service provider is not guilty of violating this section for:
    - (i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or
    - (ii) action taken, including scanning and removing computer software, to detect or prevent the following:
      - (A) unauthorized or fraudulent use of a network, service, or computer software;
      - (B) illegal activity; or
      - (C) infringement of intellectual property rights.

Amended by Chapter 111, 2023 General Session

**76-6-703.1 Unlawful disclosure of personal information.**

- (1)
- (a) As used in this section, "electronic communication harassment" means an offense under Section 76-9-201.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.
- (2) An actor commits unlawful disclosure of personal information if:
- (a) with intent that electronic communication harassment occur, the actor discloses or disseminates another person's identifying information with the expectation that others will further disseminate or use the person's identifying information; and
  - (b) the disclosure or dissemination of the other person's identifying information results in electronic communication harassment.
- (3)
- (a) If the person whose identifying information is disseminated is an adult, a violation of Subsection (2) is:

- (i) a class B misdemeanor on the first offense;
  - (ii) a class A misdemeanor on the second offense; or
  - (iii) a third degree felony on a third or subsequent offense.
- (b) If the person whose identifying information is disseminated is a minor, a violation of Subsection (2) is:
  - (i) a class A misdemeanor on the first offense; or
  - (ii) a third degree felony on the second or subsequent offense.
- (4)
  - (a) This section does not apply to an actor who provides information in conjunction with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, or Title 67, Chapter 21, Utah Protection of Public Employees Act.
  - (b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.
  - (c) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.
- (5)
  - (a) An interactive computer service is not guilty of violating this section if an actor violates this section using the interactive computer service and the interactive computer service did not knowingly assist the actor to commit the violation.
  - (b) A service provider is not guilty of violating this section for:
    - (i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or
    - (ii) action taken, including scanning and removing computer software, to detect or prevent the following:
      - (A) unauthorized or fraudulent use of a network, service, or computer software;
      - (B) illegal activity; or
      - (C) infringement of intellectual property rights.

Enacted by Chapter 111, 2023 General Session

### **76-6-703.3 Unlawful use of technology to defraud.**

- (1)
  - (a) As used in this section, "sensitive personal identifying information" means the same as that term is defined in Section 76-10-1801.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.
- (2) An actor commits unlawful use of technology to defraud if the actor uses or knowingly allows another person to use a computer, computer network, computer property, or computer system, program, or software to devise or execute any artifice or scheme to defraud or to obtain money, property, a service, or other thing of value by a false pretense, promise, or representation.
- (3) A violation of Subsection (2) is:
  - (a) a class B misdemeanor if the value of the money, property, service, or thing obtained or sought to be obtained is less than \$500;
  - (b) a class A misdemeanor if the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;



- (c) a third degree felony if the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds \$1,500 but is less than \$5,000; or
- (d) a second degree felony if:
  - (i) the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds \$5,000; or
  - (ii) the object or purpose of the artifice or scheme to defraud is the obtaining of sensitive personal identifying information, regardless of the value.
- (4)
  - (a) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.
  - (b) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.
- (5)
  - (a) An interactive computer service is not guilty of violating this section if a person violates this section using the interactive computer service and the interactive computer service did not knowingly assist the person to commit the violation.
  - (b) A service provider is not guilty of violating this section for:
    - (i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or
    - (ii) action taken, including scanning and removing computer software, to detect or prevent the following:
      - (A) unauthorized or fraudulent use of a network, service, or computer software;
      - (B) illegal activity; or
      - (C) infringement of intellectual property rights.

Enacted by Chapter 111, 2023 General Session

**76-6-703.5 Interference or interruption of critical infrastructure.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.
- (2) An actor commits interference or interruption of critical infrastructure if the actor intentionally or knowingly, and without lawful authorization, interferes with or interrupts critical infrastructure.
- (3) A violation of Subsection (2) is a third degree felony.
- (4)
  - (a) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.
  - (b) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.
- (5)
  - (a) An interactive computer service is not guilty of violating this section if a person violates this section using the interactive computer service and the interactive computer service did not knowingly assist the person to commit the violation.
  - (b) A service provider is not guilty of violating this section for:

- (i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or
- (ii) action taken, including scanning and removing computer software, to detect or prevent the following:
  - (A) unauthorized or fraudulent use of a network, service, or computer software;
  - (B) illegal activity; or
  - (C) infringement of intellectual property rights.

Enacted by Chapter 111, 2023 General Session

**76-6-703.7 Unlawful computer access.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.
- (2) An actor commits unlawful computer access if:
  - (a) the actor intentionally or knowingly, and without authorization, gains or attempts to gain access to a computer, computer network, computer property, or computer system; and
  - (b) the circumstances of the violation of Subsection (2)(a) do not constitute an offense under Section 76-6-703, 76-6-703.1, 76-6-703.3, or 76-6-703.5.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4)
  - (a) Notwithstanding Subsection (2), a retailer that uses an electronic product identification or tracking system, or other technology, to identify, track, or price goods is not guilty of a violation of this section if the equipment designed to read the electronic product identification or tracking system data and used by the retailer to identify, track, or price goods is located within the retailer's location.
  - (b) It is an affirmative defense to a violation under this section that the actor obtained access or attempted to obtain access:
    - (i) in response to, and for the purpose of protecting against or investigating, a prior attempted or successful breach of security of computer technology whose security the actor is authorized or entitled to protect, and the access attempted or obtained was no greater than reasonably necessary for that purpose; or
    - (ii) pursuant to a search warrant or a lawful exception to the requirement to obtain a search warrant.
  - (c) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.
  - (d) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.
- (5)
  - (a) An interactive computer service is not guilty of violating this section if an actor violates this section using the interactive computer service and the interactive computer service did not knowingly assist the actor to commit the violation.
  - (b) A service provider is not guilty of violating this section for:
    - (i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes,

- authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or
- (ii) action taken, including scanning and removing computer software, to detect or prevent the following:
  - (A) unauthorized or fraudulent use of a network, service, or computer software;
  - (B) illegal activity; or
  - (C) infringement of intellectual property rights.

Enacted by Chapter 111, 2023 General Session

**76-6-704 Attorney general, county attorney, or district attorney to prosecute -- Conduct violating other statutes.**

- (1) The attorney general, district attorney, or the county attorney shall prosecute suspected criminal violations of this part.
- (2) Prosecution under this part does not prevent any prosecutions under any other law.

Amended by Chapter 38, 1993 General Session

**76-6-705 Reporting violations.**

- (1) Each person who has reason to believe that a provision of Section 76-6-703, 76-6-703.1, 76-6-703.3, 76-6-703.5, or 76-6-703.7 is being or has been violated shall report the suspected violation to:
  - (a) the attorney general, or county attorney, or, if within a prosecution district, the district attorney of the county or prosecution district in which part or all of the violation occurred; or
  - (b) a state or local law enforcement agency.
- (2) Subsection (1) does not apply to the extent that the person is prohibited from reporting by a statutory or common law privilege.

Amended by Chapter 111, 2023 General Session

## **Part 8**

### **Library Theft**

**76-6-801 Library theft.**

- (1)
  - (a) As used in this section:
    - (i) "Library" means:
      - (A) a public library;
      - (B) a library of an educational or historical society;
      - (C) a museum; or
      - (D) a repository of public records.
    - (ii) "Library materials" means a book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audiovisual materials in any format, electronic data processing records, artifacts, or other documentary, written or printed materials regardless

of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of a library.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits library theft if the actor:

- (a) willfully, for the purpose of converting to personal use, and depriving the owner, conceals on the actor's person or among the actor's belongings library materials while on the premises of the library; or
- (b) willfully and without authority removes library materials from the library building with the intention of converting them to the actor's own use.

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

(a) a second degree felony if the value of the library materials is or exceeds \$5,000;

(b) a third degree felony if:

- (i) the value of the library materials is or exceeds \$1,500 but is less than \$5,000;
- (ii) the value of the library materials 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 library materials 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 library prohibiting the offender from entering the property if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; 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 library materials stolen is or exceeds \$500 but is less than \$1,500;

(ii)

(A) the value of the library materials 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 library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; 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 library materials stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

(4)

- (a) An actor who willfully conceals library materials on the actor's person or among the actor's belongings while on the premises of the library or in the library's immediate vicinity is prima facie presumed to have concealed library materials with the intention of converting the library materials to the actor's own use.
- (b) If library materials are found concealed upon the actor's person or among the actor's belongings, or electronic security devices are activated by the actor's presence, it is prima facie evidence of willful concealment.

Amended by Chapter 111, 2023 General Session

**76-6-803 Mutilation or damaging of library material.**

- (1)
  - (a) As used in this section:
    - (i) "Library" means the same as that term is defined in Section 76-6-801.
    - (ii) "Library materials" means the same as that term is defined in Section 76-6-801.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor is guilty of mutilation or damage of library materials if the actor intentionally or recklessly writes upon, injures, defaces, tears, cuts, mutilates, destroys, or otherwise damages library materials.
- (3) A violation of Subsection (2) is:
  - (a) a second degree felony if the value of the library materials is or exceeds \$5,000;
  - (b) a third degree felony if:
    - (i) the value of the library materials is or exceeds \$1,500 but is less than \$5,000;
    - (ii) the value of the library materials 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 library materials 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 library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; 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 library materials stolen is or exceeds \$500 but is less than \$1,500;
  - (ii)
    - (A) the value of the library materials 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 library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; 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 library materials stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

Amended by Chapter 111, 2023 General Session

**76-6-803.30 Failure to return library material -- Written notice.**

- (1)
  - (a) As used in this section:
    - (i) "Library" means the same as that term is defined in Section 76-6-801.
    - (ii) "Library materials" means the same as that term is defined in Section 76-6-801.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
  - (a) An actor is guilty of failure to return library materials if the actor, having possession or having been in possession of library materials:
    - (i) fails to return the materials within 30 days after receiving written notice demanding return of the materials; or
    - (ii) if the materials are lost or destroyed, fails to pay the replacement value of the materials within 30 days after being notified.
  - (b) Written notice is considered received upon the sworn affidavit of the person delivering the notice with a statement as to the date, place, and manner of delivery, or upon proof that the notice was mailed postage prepaid, via the United States Postal Service, to the current address listed for the person in the library records.
- (3) A violation of Subsection (2) is:
  - (a) a second degree felony if the value of the library materials is or exceeds \$5,000;
  - (b) a third degree felony if:
    - (i) the value of the library materials is or exceeds \$1,500 but is less than \$5,000;
    - (ii) the value of the library materials 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 library materials 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 library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; 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 library materials stolen is or exceeds \$500 but is less than \$1,500;

(ii)

(A) the value of the library materials 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 library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; 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 library material stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

Amended by Chapter 111, 2023 General Session

#### **76-6-803.60 Detention of theft suspect by library employee -- Purposes.**

(1)

(a) As used in this section:

(i) "Library" means the same as that term is defined in Section 76-6-801.

(ii) "Library materials" means the same as that term is defined in Section 76-6-801.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Any employee of the library who has probable cause to believe that a person has committed library theft may detain the person, on or off the premises of a library, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

(a) to make reasonable inquiry as to whether the person has in his possession concealed library materials;

(b) to request identification;

(c) to verify identification;

(d) to make a reasonable request of the person to place or keep in full view any library materials the individual may have removed, or which the employee has reason to believe he may have removed, from its place of display or elsewhere, whether for examination, or for any other reasonable purpose;

(e) to inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer; or

(f) in the case of a minor, to inform a peace officer, the parents, guardian, or other private person interested in the welfare of the minor as soon as possible of this detention and to surrender custody of the minor to this person.

(3) An employee may make a detention under this section off the library premises only if the detention is pursuant to an immediate pursuit of the person.

Amended by Chapter 111, 2023 General Session

#### **76-6-803.90 Liability -- Defense -- Probable cause -- Reasonableness.**

(1)

- (a) As used in this section, "library" means the same as that term is defined in Section 76-6-801.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, trespass, or invasion of civil rights brought by any person detained by an employee of the library, it is a defense to the action that the employee of the library detaining the person had probable cause to believe that the person had committed library theft and that the employee acted reasonably under all circumstances.

Amended by Chapter 111, 2023 General Session

## **Part 9**

### **Cultural Sites Protection**

#### **76-6-901 Definitions.**

As used in this part:

- (1) "Antiquities" means:
  - (a) all material remains and their associations, recoverable through excavation or surface collection, that provide information pertaining to the historic or prehistoric peoples in the state; and
  - (b) vertebrate fossils and other exceptional fossils and fossil sites designated as state landmarks.
- (2) "Landowner" includes the School and Institutional Trust Lands Administration with respect to lands sold by the School and Institutional Trust Lands Administration and upon which a restrictive deed covenant has been imposed by the School and Institutional Trust Lands Administration.
- (3) "Persons" means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of any Native American tribe, or of any state or political subdivision of any state.
- (4) "State lands" means all lands owned by:
  - (a) Utah, including school and institutional trust lands and lands sold by the School and Institutional Trust Lands Administration subject to a restrictive deed covenant for the protection of antiquities; and
  - (b) political subdivisions.

Amended by Chapter 111, 2006 General Session

#### **76-6-902 Antiquities alteration, removal, injury, or destruction.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.
- (2) An actor commits antiquities alteration, removal, injury, or destruction if the actor:
  - (a) intentionally alters, removes, injures, or destroys antiquities from state lands or private lands without the landowner's consent; or
  - (b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.
  - (b) A violation of Subsection (2) is a third degree felony if:



- (i) the violation is the actor's second or subsequent violation of this section, Section 76-6-902.1, or Section 76-6-902.2; or
- (ii) the amount at issue, as calculated under Subsection (3)(c), exceeds \$500.
- (c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:
  - (i) the commercial or archaeological value of the antiquities involved in the violation; and
  - (ii) the cost of the restoration and repair of the antiquities involved in the violation.
- (d) An actor shall surrender to the landowner all articles and material discovered, collected, excavated, or offered for sale or exchange in violation of this section.

Amended by Chapter 111, 2023 General Session

**76-6-902.1 Unlawful creation, labeling, or sale of reproduction of antiquities.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.
- (2) An actor commits unlawful reproduction, labeling, or sale of reproduction of antiquities if the actor:
  - (a) with the intent to represent one or more objects as original and genuine antiquities, intentionally:
    - (i) reproduces, reworks, or forges antiquities; or
    - (ii)
      - (A) makes an object, whether as a copy or not; or
      - (B) falsely labels, describes, identifies, or offers for sale or exchange an object; or
  - (b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.
  - (b) A violation of Subsection (2) is a third degree felony if:
    - (i) the violation is the actor's second or subsequent violation of this section, Section 76-6-902, or Section 76-6-902.2; or
    - (ii) the amount at issue, as calculated under Subsection (3)(c), exceeds \$500.
  - (c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:
    - (i) the commercial or archaeological value of the antiquities involved in the violation; and
    - (ii) the cost of the restoration and repair of the antiquities involved in the violation.
  - (d) An actor shall surrender to the landowner all articles and material discovered, collected, excavated, or offered for sale or exchange in violation of this section.

Enacted by Chapter 111, 2023 General Session

**76-6-902.2 Unlawful sale or exchange of antiquities.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.
- (2) An actor commits unlawful sale or exchange of antiquities if the actor:
  - (a) offers for sale or exchange an object that was collected or excavated in violation of Section 76-6-902; or
  - (b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.
  - (b) A violation of Subsection (2) is a third degree felony if:

- (i) the violation is the actor's second or subsequent violation of this section, Section 76-6-902, or Section 76-6-902.1; or
- (ii) the amount at issue, as calculated under Subsection (3)(c), exceeds \$500.
- (c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:
  - (i) the commercial or archaeological value of the antiquities involved in the violation; and
  - (ii) the cost of the restoration and repair of the antiquities involved in the violation.
- (d) An actor shall surrender to the landowner all articles and material discovered, collected, excavated, or offered for sale or exchange in violation of this section.

Enacted by Chapter 111, 2023 General Session

## **Part 10**

### **Mail Box Damage and Mail Theft**

#### **76-6-1001 Definitions.**

As used in this part:

- (1) "Common mail carrier" means a person engaged in or transacting the business of collecting, transporting, or delivering mail, other than the United States Postal Service.
- (2) "Key" means any instrument used by the postal service and postal customer, and which is designed to operate the lock on a mail receptacle.
- (3) "Mail" means any letter, card, parcel, or other material, along with its contents, that:
  - (a) has postage affixed by the postal customer or postal service;
  - (b) has been accepted for delivery by the postal service;
  - (c) the postal customer leaves for collection by the postal service; or
  - (d) the postal service delivers to the postal customer.
- (4) "Mail receptacle" means a mail box, post office box, rural box, or any place or area intended or used by postal customers or a postal service for the collection or delivery of mail.
- (5) "Personal identifying information" means the same as that term is defined in Section 76-6-1101.
- (6) "Postage" means a postal service stamp, permit imprint, meter strip, or other indication of either prepayment for postal service provided or authorization by the postal service for collection and delivery of mail.
- (7) "Postal service" means the United States Postal Service or a private common mail carrier.

Amended by Chapter 111, 2023 General Session

#### **76-6-1002 Damage to mail receptacle.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-1001 apply to this section.
- (2) An actor commits damage to a mail receptacle if the actor knowingly damages the condition of a mail receptacle, including:
  - (a) taking, concealing, damaging, or destroying a key; or
  - (b) breaking open, tearing down, taking, damaging, or destroying a mail receptacle.
- (3)
  - (a) A violation of Subsection (2) is a:
    - (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$5,000 in value;

- (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$1,500 but is less than \$5,000 in value;
  - (iii) class A misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and
  - (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss less than \$500 in value.
- (b) If the act committed amounts to an offense subject to a greater penalty, Subsection (3)(a) does not prohibit prosecution and sentencing for the more serious offense.
- (4) The following presumptions and defenses shall be applicable to this section:
- (a) possession of property recently stolen, when no satisfactory explanation of such possession is made, is prima facie evidence that the actor in possession stole the property;
  - (b) it is no defense under this part that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this Subsection (4)(b) shall not include a security interest for the repayment of a debt or obligation; and
  - (c) it is a defense under this section that the actor:
    - (i) acted under an honest claim of right to the property or service involved;
    - (ii) acted in the honest belief that the actor had the right to obtain or exercise control over the property or service as the actor did; or
    - (iii) obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

Amended by Chapter 111, 2023 General Session

**76-6-1003 Mail theft.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-1001 apply to this section.
- (2) An actor commits mail theft if the actor:
- (a) knowingly, and with the intent to deprive another:
    - (i) takes, destroys, hides, or embezzles mail; or
    - (ii) obtains any mail by fraud or deception; or
  - (b) buys, receives, conceals, or possesses mail and knows or reasonably should have known that the mail was unlawfully taken or obtained.
- (3) A violation of Subsection (2) is:
- (a) a third degree felony;
  - (b) a class A misdemeanor, if the mail has no monetary value and does not include the name of an individual; or
  - (c) a second degree felony, if the mail contains the personal identifying information of 10 or more individuals.
- (4) The following presumptions and defenses shall be applicable to this section:
- (a) possession of property recently stolen, when no satisfactory explanation of such possession is made, is prima facie evidence that the actor in possession stole the property;
  - (b) it is no defense under this section that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this Subsection (4)(b) shall not include a security interest for the repayment of a debt or obligation; and
  - (c) it is a defense under this section that:
    - (i) the actor acted under an honest claim of right to the property or service involved;

- (ii) the actor acted in the honest belief that the actor had the right to obtain or exercise control over the property or service as the actor did;
- (iii) the actor obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented;
- (iv) the actor was unaware that the mail belonged to another person;
- (v) the actor reasonably believed the actor was entitled to the mail or had a right to acquire or dispose of the mail as the actor did; or
- (vi) the mail belonged to the actor's spouse, unless the parties were either legally separated or living in separate residences at the time of the alleged mail theft.

Amended by Chapter 111, 2023 General Session

## **Part 11**

### **Identity Fraud Act**

#### **76-6-1101 Definitions.**

- (1) As used in this part:
  - (a) "Personal identifying information" may include:
    - (i) name;
    - (ii) birth date;
    - (iii) address;
    - (iv) telephone number;
    - (v) driver license number;
    - (vi) social security number;
    - (vii) place of employment;
    - (viii) employee identification numbers or other personal identification numbers;
    - (ix) mother's maiden name;
    - (x) electronic identification numbers;
    - (xi) electronic signatures under Title 46, Chapter 4, Uniform Electronic Transactions Act;
    - (xii) any other numbers or information that can be used to access a person's financial resources or medical information, except for numbers or information that can be prosecuted as financial transaction card offenses under Sections 76-6-506, 76-6-506.2, 76-6-506.3, and 76-6-506.6; or
    - (xiii) a photograph or any other realistic likeness.
  - (b) "Restitution" means the same as that term is defined in Section 77-38b-102.

Repealed and Re-enacted by Chapter 111, 2023 General Session

#### **76-6-1102 Identity fraud.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-1101 apply to this section.
- (2) An actor commits identity fraud if the actor knowingly or intentionally uses, or attempts to use, the personal identifying information of another person, whether that person is alive or deceased, with fraudulent intent, including to obtain, or attempt to obtain, credit, goods, services, employment, any other thing of value, or medical information.
- (3) A violation of Subsection (2) is:

- (a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the credit, goods, services, employment, or any other thing of value is less than \$5,000; or
- (b) a second degree felony if:
  - (i) the value of the credit, goods, services, employment, or any other thing of value is or exceeds \$5,000; or
  - (ii) the use described in Subsection (2) of personal identifying information results, directly or indirectly, in bodily injury to another person.
- (4)
  - (a) It is not a defense to a violation of Subsection (2) that the actor did not know that the personal information belonged to another person.
  - (b) Multiple violations of Subsection (2) may be aggregated into a single offense, and the degree of the offense is determined by the total value of all credit, goods, services, or any other thing of value used, or attempted to be used, through the multiple violations.
- (5)
  - (a) If a defendant is convicted of a violation of this section, the court shall order the defendant to pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act.
  - (b) Restitution under Subsection (5)(a) may include:
    - (i) payment for any costs incurred, including attorney fees, lost wages, and replacement of checks; and
    - (ii) the value of the victim's time incurred due to the offense:
      - (A) in clearing the victim's credit history or credit rating;
      - (B) in any civil or administrative proceedings necessary to satisfy or resolve any debt, lien, or other obligation of the victim or imputed to the victim and arising from the offense; and
      - (C) in attempting to remedy any other intended or actual harm to the victim incurred as a result of the offense.

Amended by Chapter 111, 2023 General Session

#### **76-6-1103 Investigation of violation.**

In addition to investigations conducted by law enforcement agencies, the Office of the Attorney General also has responsibility for investigating violations of this part where identity fraud is the primary violation that is alleged to have been committed.

Amended by Chapter 227, 2004 General Session

#### **76-6-1104 Court records.**

In any case in which a person commits identify fraud and uses the personal identifying information obtained to commit a crime in addition to the identity fraud, the court shall make appropriate findings in any prosecution of such a crime that the person whose identity was falsely used to commit the crime did not commit the crime.

Enacted by Chapter 57, 2000 General Session

#### **76-6-1105 Unlawful possession of another's identification documents.**

- (1)
  - (a) As used in this section:
    - (i)
      - (A) "Identifying document" means:

- (I) a government issued document commonly used for identification;
  - (II) a vehicle registration certificate; or
  - (III) any other document, image, data file, or medium containing personal identifying information as defined in Subsection 76-6-1101(1)(a).
  - (B) "Identifying document" includes:
    - (I) a counterfeit identifying document; or
    - (II) a document containing personal identifying information of a deceased individual.
  - (ii) "Possess" means to have physical control or electronic access.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-1101 apply to this section.
- (2)
- (a) Under circumstances that do not constitute a violation of Section 76-6-502 or 76-6-1102, an actor commits unlawful possession of another's identification documents if the actor:
    - (i) obtains or possesses an identifying document:
      - (A) with knowledge that the actor is not entitled to obtain or possess the identifying document; or
      - (B) with intent to deceive or defraud; or
    - (ii) assists another person in obtaining or possessing an identifying document:
      - (A) with knowledge that the person is not entitled to obtain or possess the identifying document; or
      - (B) with knowledge that the person intends to use the identifying document to deceive or defraud.
  - (b) Under circumstances that do not constitute a violation of Section 76-6-502 or 76-6-1102, an actor commits unlawful possession of another's identification documents if the actor:
    - (i) obtains or possesses identifying documents of more than two, but fewer than 100, individuals:
      - (A) with knowledge that the individual is not entitled to obtain or possess the identifying documents; or
      - (B) with intent to deceive or defraud; or
    - (ii) assists another person in obtaining or possessing identifying documents of more than two, but fewer than 100, individuals:
      - (A) with knowledge that the person is not entitled to obtain or possess the multiple identifying documents; or
      - (B) with knowledge that the person intends to use the identifying documents to deceive or defraud.
  - (c) Under circumstances that do not constitute a violation of Section 76-6-502 or 76-6-1102, an actor commits unlawful possession of another's identification documents if the actor:
    - (i) obtains or possesses identifying documents of 100 or more individuals:
      - (A) with knowledge that the individual is not entitled to obtain or possess the identifying documents; or
      - (B) with intent to deceive or defraud; or
    - (ii) assists another person in obtaining or possessing identifying documents of 100 or more individuals:
      - (A) with knowledge that the person is not entitled to obtain or possess the identifying documents; or
      - (B) with knowledge that the person intends to use the identifying documents to deceive or defraud.
- (3) A violation of:
- (a) Subsection (2)(a) is a class A misdemeanor;

- (b) Subsection (2)(b) is a third degree felony; or
- (c) Subsection (2)(c) is a second degree felony.

Amended by Chapter 111, 2023 General Session

## **Part 12**

### **Utah Mortgage Fraud Act**

#### **76-6-1202 Definitions.**

As used in this part:

- (1) "Mortgage lending process" means the process through which a person seeks or obtains a mortgage loan, including solicitation, application, or origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan.
- (2) "Mortgage loan":
  - (a) means a loan or agreement made to extend credit to a person when the loan is secured by a deed, security deed, mortgage, security interest, deed of trust, or other document representing a security interest or lien upon any interest in one-to-four family residential property; and
  - (b) includes the renewal or refinancing of any loan.
- (3) "Pattern of unlawful activity" has the same definition as in Section 76-10-1602.
- (4) "Sensitive personal identifying information" includes:
  - (a) the following information regarding an individual's:
    - (i) Social Security number;
    - (ii) driver license number or other government issued identification number;
    - (iii) financial account number or credit or debit card number;
    - (iv) password or personal identification number or other identification required to gain access to a financial account or a secure website;
    - (v) automated or electronic signature; and
    - (vi) unique biometric data; and
  - (b) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.
- (5) "Value" means the value of the property, money, or thing obtained or sought to be obtained.

Enacted by Chapter 370, 2008 General Session

#### **76-6-1203 Mortgage fraud.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-1202 apply to this section.
- (2) An actor commits mortgage fraud if the actor does any of the following with the intent to defraud:
  - (a) knowingly makes any material misstatement, misrepresentation, or omission during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;
  - (b) knowingly uses or facilitates the use of any material misstatement, misrepresentation, or omission, during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;

- (c) files or causes to be filed with any county recorder in Utah any document that the actor knows contains a material misstatement, misrepresentation, or omission; or
  - (d) receives any proceeds or any compensation in connection with a mortgage loan that the actor knows resulted from a violation of this section.
- (3)
- (a) Notwithstanding any other administrative, civil, or criminal penalties, a violation of Subsection (2) is a:
    - (i) class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500;
    - (ii) third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;
    - (iii) second degree felony if the value is or exceeds \$5,000; and
    - (iv) second degree felony if the object or purpose of the commission of an act of mortgage fraud is the obtaining of sensitive personal identifying information, regardless of the value.
  - (b) The determination of the degree of any offense under Subsection (3)(a) is measured by the total value of all property, money, or things obtained or sought to be obtained by a violation of Subsection (2), except as provided in Subsection (3)(a)(iv).
- (4) Each residential or commercial property transaction offense under this section constitutes a separate violation.

Amended by Chapter 111, 2023 General Session

## **Part 13**

### **Utah Automated Sales Suppression Device Act**

#### **76-6-1302 Definitions.**

As used in this part:

- (1) "Automated sales suppression device" means:
  - (a) a software program that falsifies the electronic records of electronic cash registers or any other point-of-sale systems, including transaction data and transaction reports; or
  - (b) a general reference to a device that allows for, creates, or supports an automated sales suppression system or any kind of phantomware.
- (2) "Electronic cash register" means any device, wherever located, that maintains a transaction register or supporting documents by means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail, wholesale, or any other sales transaction data.
- (3) "Person" means an individual, business, or entity.
- (4) "Phantomware" means a programming option that:
  - (a) is pre-installed, installed at a later time, or otherwise embedded in the operating system of an electronic cash register or hardwired into the electronic cash register; and
  - (b) can be used to create a virtual alternate register or to eliminate or manipulate transaction records that may or may not be preserved in digital formats in order to represent a manipulated record or records of transactions in the electronic cash register.
- (5) "Transaction data" includes items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change or in a refund, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.



- (6) "Transaction report" means a report that includes the sales, taxes collected, media totals, and discount voids at an electronic cash register and that is generated at the end of a day or shift. The report is printed on cash register tape or is stored electronically.

Enacted by Chapter 32, 2012 General Session

**76-6-1303 Possession, sale, or use of automated sales suppression device unlawful.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-1302 apply to this section.
- (2) An actor commits possession, sale, or use of an automated sales suppression device if the actor willfully or knowingly sells, purchases, installs, transfers, uses, or possesses in this state any automated sales suppression device or phantomware with the intent to defraud.
- (3)
- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.
- (b) A second or subsequent violation of Subsection (2) is a second degree felony.
- (c) Notwithstanding Section 76-3-301, any person convicted of violating Subsection (2) may be fined not more than twice the amount of the applicable taxes that would otherwise be due, but for the use of the automated sales suppression device or phantomware.
- (d) Any person convicted of a violation of Subsection (2):
- (i) is liable for all applicable taxes, penalties under Section 59-1-401, and interest under Section 59-1-402 that would otherwise be due, but for the use of the automated sales suppression device or phantomware to evade the payment of taxes; and
- (ii) shall disgorge all profits associated with the sale or use of an automated sales suppression device or phantomware.
- (4) An automated sales suppression device and any device containing an automated sales suppression device is contraband and subject to forfeiture under Title 77, Chapter 11b, Forfeiture of Seized Property.

Amended by Chapter 111, 2023 General Session

Amended by Chapter 448, 2023 General Session

## **Part 14**

### **Regulation of Metal Dealers**

**76-6-1402 Definitions.**

As used in this part:

- (1) "Catalytic converter" means a motor vehicle exhaust system component that reduces vehicle emissions by breaking down harmful exhaust emissions.
- (2) "Dealer" means:
- (a) a scrap metal processor or secondary metals dealer or recycler, but does not include:
- (i) junk dealers as defined in Section 76-6-1402;
- (ii) solid waste management facilities as defined in Section 19-6-502; or
- (iii) the following businesses that are authorized to accept delivery of used lead batteries for recycling under Sections 19-6-603, 19-6-604, and 19-6-605:
- (A) retailers;
- (B) wholesalers;
- (C) battery manufacturers; and

- (D) secondary lead smelters.
- (b) a metals refiner.
- (3) "Ferrous metal" means a metal that contains significant quantities of iron or steel.
- (4) "Identification" means a form of positive identification issued by a state of the United States or the United States federal government that:
  - (a) contains a numerical identifier and a photograph of the person identified;
  - (b) provides the date of birth of the person identified; and
  - (c) includes a state identification card, a state driver license, a United States military identification card, or a United States passport.
- (5) "Junk dealer" means all persons, firms, or corporations engaged in the business of purchasing or selling secondhand or castoff material, including ropes, cordage, bottles, bagging, rags, rubber, paper, and other like materials, but not including regulated metal.
- (6) "Local law enforcement agency" means the law enforcement agency that has jurisdiction over the area where the dealer's business is located.
- (7) "Metals refiner" means an individual or business that refines or melts any regulated metal, but does not include an individual or business that primarily uses ore, concentrate, or other primary materials in refining, melting, or producing any regulated metal.
- (8) "Nonferrous metal":
  - (a) means a metal that does not contain significant quantities of iron or steel; and
  - (b) includes copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.
- (9)
  - (a) "Regulated metal" means any item composed primarily of nonferrous metal, except as provided in Subsection (9)(c).
  - (b) "Regulated metal" includes:
    - (i) aluminum, brass, copper, lead, chromium, tin, nickel, or alloys of these metals, except under Subsection (9)(c), and lead that is a part of an automotive or industrial lead battery;
    - (ii) property that is a regulated metal and that is owned by, and also identified by marking or other means as the property of:
      - (A) a telephone, cable, electric, water, or other utility; or
      - (B) a railroad company;
    - (iii) unused and undamaged building construction materials made of metal or alloy, including:
      - (A) copper pipe, tubing, or wiring; and
      - (B) aluminum wire, siding, downspouts, or gutters;
    - (iv) oil well rigs, including any part of the rig;
    - (v) nonferrous materials, stainless steel, and nickel; and
    - (vi) irrigation pipe.
  - (c) "Regulated metal" does not include:
    - (i) ferrous metal, except as provided in Subsection (9)(b)(ii) or (iv);
    - (ii) household-generated recyclable materials;
    - (iii) items composed wholly of light iron or sheet steel;
    - (iv) aluminum beverage containers; or
    - (v) containers used solely for containing food.
- (10) "Scrap metal processor" means any person:
  - (a) who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel, or nonferrous scrap into prepared grades; and
  - (b) whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.
- (11) "Secondary metals dealer or recycler" means any person who:

- (a) is engaged in the business of purchasing, collecting, or soliciting regulated metal; or
  - (b) operates or maintains a facility where regulated metal is purchased or kept for shipment, sale, transfer, or salvage.
- (12) "Suspect metal items" are the following items made of regulated metal:
- (a) manhole covers and sewer grates;
  - (b) gas meters and water meters;
  - (c) traffic signs, street signs, aluminum street light poles, communications transmission towers, and guard rails;
  - (d) grave site monument vases and monument plaques;
  - (e) any monument plaque;
  - (f) brass or bronze bar stock and bar ends;
  - (g) ingots;
  - (h) nickel and nickel alloys containing greater than 50% nickel;
  - (i) #1 and #2 copper as defined by the most recent institute of Scrap Recycling Industries, Inc., Scrap Specifications Circular;
  - (j) unused and undamaged building materials, including:
    - (i) greenline copper;
    - (ii) copper pipe, tubing, or wiring; and
    - (iii) aluminum wire, siding, downspouts, or gutters;
  - (k) catalytic converters;
  - (l) automotive and industrial lead batteries; and
  - (m) wire that has been burned or that has the appearance of having been burned.

Amended by Chapter 108, 2015 General Session

**76-6-1403 Requirements for records of sale or purchases.**

- (1) Every dealer shall:
- (a) require the information under Subsection (2) for each transaction of regulated metal, except under Subsection 76-6-1406(4); and
  - (b) maintain for each purchase of regulated metal the information required by this part in a written or electronic log, in the English language.
- (2) The dealer shall require the following information of the seller and shall record the information as required under Subsection (1) for each purchase of regulated metal:
- (a) a complete description of the regulated metal, including weight and metallic description, in accordance with scrap metal recycling industry standards;
  - (b) the full name and residence of each person selling the regulated metal;
  - (c) the vehicle type and license plate number, if applicable, of the vehicle transporting the regulated metal to the dealer;
  - (d) the price per pound and the amount paid for each type of regulated metal purchased by the dealer;
  - (e) the date, time, and place of the purchase;
  - (f) the type and the identifying number of the identification provided in Subsection (2)(g);
  - (g) a form of identification that is a valid United States federal or state-issued photo ID, which includes a driver license, a United States passport, a United States passport card, or a United States military identification card;
  - (h) the seller's signature on a certificate stating that the seller has the legal right to sell the scrap metal or junk; and

- (i) a digital photograph or still video of the seller, taken at the time of the sale, or a clearly legible photocopy of the seller's identification.
- (3) No entry in the log may be erased, deleted, mutilated, or changed.
- (4) The log and entries shall be open to inspection by the following officials having jurisdiction over the area in which the dealer does business during regular business hours:
  - (a) the county sheriff or deputies;
  - (b) any law enforcement agency; and
  - (c) any constable or other state, municipal, or county official in the county in which the dealer does business.
- (5) A dealer shall make these records available for inspection by any law enforcement agency, upon request, at the dealer's place of business during the dealer's regular business hours.
- (6) Log entries made under this section shall be maintained for not less than three years from date of entry.
- (7)
  - (a) The dealer may maintain the information required by Subsection (2) for repeat sellers who use the same vehicle to bring regulated metal for each transaction in a relational database that allows the dealer to enter an initial record of the seller's information and then relate subsequent transaction records to that initial information, except under Subsection (7)(b).
  - (b) The dealer shall obtain regarding each transaction with repeat sellers:
    - (i) a photograph of the seller; and
    - (ii) a signature from the seller.
- (8) A dealer who violates this section is subject to the penalties described in Section 76-6-1403.1.

Amended by Chapter 111, 2023 General Session

**76-6-1403.1 Unlawful conduct with respect to record of sale or purchase.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.
- (2) A dealer commits unlawful conduct with respect to record of sale or purchase if the dealer violates a requirement under Section 76-6-1403.
- (3)
  - (a)
    - (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.
    - (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to a mandatory fine of no less than \$750.
  - (b)
    - (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously has been convicted of a violation of this section or Section 76-6-1404.1, 76-6-1405.1, 76-6-1406.1, or 76-6-1409.1.
    - (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than \$2,500.
- (4)
  - (a) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in Section 76-6-1403 or this section.
  - (b) This section does not impair the authority of a county or municipality to revoke or deny a business license or permit required by that county or municipality regulating the authority to

sell, purchase, or possess metal, including the revocation or denial of a business license or permit based on a violation of Section 76-6-1403 or this section.

- (c) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Enacted by Chapter 111, 2023 General Session

**76-6-1404 Required notice to sellers of identification requirements.**

- (1) A dealer shall at all times maintain in a prominent place at the dealer's place of business, in open view to a seller of regulated metal, a clearly legible notice in not less than two-inch high lettering that contains the following language: "A PERSON ATTEMPTING TO SELL ANY REGULATED METAL MUST PROVIDE IDENTIFICATION AS REQUIRED BY STATE LAW."
- (2) A dealer who violates this section is subject to the penalties described in Section 76-6-1404.1.

Amended by Chapter 111, 2023 General Session

**76-6-1404.1 Unlawful failure to maintain required notice to sellers.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.
- (2) A dealer commits unlawful failure to maintain required notice to sellers if the dealer violates a requirement under Section 76-6-1404.
- (3)
  - (a)
    - (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.
    - (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to a mandatory fine of no less than \$750.
  - (b)
    - (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously has been convicted of a violation of this section or Section 76-6-1403.1, 76-6-1405.1, 76-6-1406.1, or 76-6-1409.1.
    - (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than \$2,500.
- (4)
  - (a) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in Section 76-6-1404 or this section.
  - (b) This section does not impair the authority of a county or municipality to revoke or deny a business license or permit required by that county or municipality regulating the authority to sell, purchase, or possess metal, including the revocation or denial of a business license or permit based on a violation of Section 76-6-1404 or this section.
  - (c) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Enacted by Chapter 111, 2023 General Session

**76-6-1405 Qualifications to sell to dealer.**

- (1) A dealer may not purchase regulated metal from a person younger than 18 years old.

- (2) If the person is unable to comply with all the identification requirements of Subsection 76-6-1403(2), the dealer may not conduct a transaction of regulated metal with that person.
- (3) A dealer who violates this section is subject to the penalties described in Section 76-6-1405.1.

Amended by Chapter 111, 2023 General Session

**76-6-1405.1 Unlawful failure to comply with qualifications to sell to dealer.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.
- (2) A dealer commits unlawful failure to comply with qualifications to sell to dealer if the dealer violates a requirement under Section 76-6-1405.
- (3)
  - (a)
    - (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.
    - (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to a mandatory fine of no less than \$750.
  - (b)
    - (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously has been convicted of a violation of this section or Section 76-6-1403.1, 76-6-1404.1, 76-6-1406.1, or 76-6-1409.1.
    - (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than \$2,500.
- (4)
  - (a) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in Section 76-6-1405 or this section.
  - (b) This section does not impair the authority of a county or municipality to revoke or deny a business license or permit required by that county or municipality regulating the authority to sell, purchase, or possess metal, including the revocation or denial of a business license or permit based on a violation of Section 76-6-1405 or this section.
  - (c) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Enacted by Chapter 111, 2023 General Session

**76-6-1406 Restrictions on the purchase of regulated metal -- Exemption.**

- (1) A dealer may conduct purchase transactions involving regulated metal only between the hours of 6 a.m. and 7 p.m.
- (2) Except when the dealer pays a government entity by check for regulated metal, the dealer may not purchase any of the following regulated metal without obtaining and keeping on file reasonable documentation that the seller is an employee, agent, or contractor of a governmental entity who is authorized to sell the item of regulated metal property on behalf of the governmental entity:
  - (a) a manhole cover or sewer grate;
  - (b) an electric light pole; or
  - (c) a guard rail.
- (3)

- (a) A dealer may not purchase suspect metal without obtaining the information under Subsection (3)(b) identifying the owner of the suspect metal.
- (b) The owner of the suspect metal shall provide in writing:
  - (i) the owner's telephone number;
  - (ii) the owner's business or residential address, which may not be a post box;
  - (iii) a copy of the owner's driver license; and
  - (iv) a signed statement that the person is the lawful owner of the suspect metal and authorizes the seller, identified by name, to sell the suspect metal.
- (c) The dealer shall keep the identifying information provided in Subsection (3)(b) on file for not less than one year.
- (4) Transactions with businesses that have an established account with the dealer are exempt from the requirements of Subsections (2) and (3) if the business holds a valid business license, and:
  - (a)
    - (i) the dealer has on file a statement from the business identifying those employees authorized to sell all metals to the dealer; and
    - (ii) the dealer conducts regulated metal transactions only with those identified employees of the business and records the name of the employee when recording the transaction;
  - (b) the dealer has on file reasonable documentation from the business that any person verified as representing the business as an employee, and whom the dealer has verified is an employee, may sell regulated metal; or
  - (c) the dealer makes payment for regulated metal purchased from a person by issuing a check to the business employing the seller.
- (5) If a dealer is a catalytic converter purchaser as defined in Section 13-32a-102, the dealer shall comply with the requirements in Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act.
- (6) A dealer who violates this section is subject to the penalties described in Section 76-6-1406.1.

Amended by Chapter 111, 2023 General Session

**76-6-1406.1 Unlawful failure to follow restrictions on the purchase of regulated metal.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.
- (2) A dealer commits unlawful failure to follow restrictions on the purchase of regulated metal if the dealer violates a requirement under Section 76-6-1406.
- (3)
  - (a)
    - (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.
    - (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to a mandatory fine of no less than \$750.
  - (b)
    - (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously has been convicted of a violation of this section or Section 76-6-1403.1, 76-6-1404.1, 76-6-1405.1, or 76-6-1409.1.
    - (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than \$2,500.
- (4)

- (a) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in Section 76-6-1406 or this section.
- (b) This section does not impair the authority of a county or municipality to revoke or deny a business license or permit required by that county or municipality regulating the authority to sell, purchase, or possess metal, including the revocation or denial of a business license or permit based on a violation of Section 76-6-1406 or this section.
- (c) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Enacted by Chapter 111, 2023 General Session

**76-6-1408 Falsification of seller's statement to dealer.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.
- (2) An actor commits falsification of seller's statement to dealer if the actor:
  - (a) sells, offers to sell, or attempts to sell regulated metal; and
  - (b) in providing information required by Section 76-6-1403, 76-6-1405, or 76-6-1406 willfully makes a false statement or provides any untrue information.
- (3)
  - (a)
    - (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.
    - (ii) An actor who is convicted of a class B misdemeanor under this section is subject to a mandatory fine of no less than \$1,000.
  - (b)
    - (i) A violation of Subsection (2) is a class A misdemeanor if the actor previously has been convicted of a violation of this section.
    - (ii) An actor who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than \$2,500.

Amended by Chapter 111, 2023 General Session

**76-6-1409 Hold on stolen regulated metal property -- Hold notice.**

- (1)
  - (a) If a law enforcement agency has reasonable cause to believe that items of regulated metal in the possession of a dealer are stolen, the law enforcement agency may issue a written hold notice.
  - (b) The hold notice described in Subsection (1)(a) shall:
    - (i) identify those items of regulated metal alleged to be stolen and subject to hold; and
    - (ii) inform the dealer of the restrictions imposed on the regulated metal property under Subsection (2).
- (2) For 60 days after the date of receiving a hold notice, a dealer may not process or remove from the dealer's place of business any regulated metal identified in the hold notice, unless the property is released earlier by the law enforcement agency or by order of a court of competent jurisdiction.
- (3) On the expiration of the hold notice period, the hold is automatically released, and the dealer may dispose of the regulated metal, unless otherwise directed by a court of competent jurisdiction.



(4) A dealer who violates this section is subject to the penalties described in Section 76-6-1409.1.

Amended by Chapter 111, 2023 General Session

**76-6-1409.1 Unlawful violation of regulated metal hold requirement.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.
- (2) A dealer commits unlawful violation of regulated metal hold requirement if the dealer violates a requirement under Section 76-6-1409.
- (3)
  - (a)
    - (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.
    - (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to a mandatory fine of no less than \$750.
  - (b)
    - (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously has been convicted of a violation of this section or Section 76-6-1403.1, 76-6-1404.1, 76-6-1405.1, or 76-6-1406.1.
    - (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than \$2,500.
- (4)
  - (a) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in Section 76-6-1409 or this section.
  - (b) This section does not impair the authority of a county or municipality to revoke or deny a business license or permit required by that county or municipality regulating the authority to sell, purchase, or possess metal, including the revocation or denial of a business license or permit based on a violation of Section 76-6-1409 or this section.
  - (c) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Enacted by Chapter 111, 2023 General Session