

1 **THEFT AND PROPERTY DAMAGE**

2 **AMENDMENTS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Mike Dmitrich**

6 AN ACT RELATING TO THE CRIMINAL CODE; PROVIDING FOR DETERMINATION OF
7 THEFT PENALTIES BASED ON THE VALUE OF CRIMINAL THEFT COMBINED WITH
8 ACCOMPANYING PROPERTY DAMAGE.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **76-6-412**, as last amended by Chapters 119 and 289, Laws of Utah 1997

12 *Be it enacted by the Legislature of the state of Utah:*

13 Section 1. Section **76-6-412** is amended to read:

14 **76-6-412. Theft -- Classification of offenses -- Action for treble damages.**

15 (1) Theft of property and services as provided in this chapter [~~shall be~~] is punishable:

16 (a) as a felony of the second degree if the:

17 (i) value of the property or services is or exceeds \$5,000;

18 (ii) property stolen is a firearm or an operable motor vehicle;

19 (iii) actor is armed with a dangerous weapon, as defined in Section 76-1-601, at the time
20 of the theft; or

21 (iv) property is stolen from the person of another;

22 (b) as a felony of the third degree if:

23 (i) the value of the property or services is or exceeds \$1,000 but is less than \$5,000;

24 (ii) the actor has been twice before convicted of theft, any robbery, or any burglary with
25 intent to commit theft; or

26 (iii) in a case not amounting to a second-degree felony, the property taken is a stallion,
27 mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry,

28 or a fur-bearing animal raised for commercial purposes;

29 (c) as a class A misdemeanor if the value of the property stolen is or exceeds \$300 but is
30 less than \$1,000; or

31 (d) as a class B misdemeanor if the value of the property stolen is less than \$300.

32 (2) (a) The determination of the degree of any theft offense may be measured by the total
33 value of all property destroyed, damaged, or injured, and the money or things stolen, if during a
34 single criminal episode the defendant commits theft and:

35 (i) any offense under Title 76, Chapter 6, Part 1, Property Destruction; or

36 (ii) any other offense, an element of which is destruction, damage, or injury to property.

37 (b) (i) If the prosecutor elects to aggregate the value under Subsection (2)(a), the
38 aggregation may only increase the degree of the theft offense.

39 (ii) The defendant may not be sentenced for any offense other than theft that is used as the
40 basis for increasing the level of the theft offense.

41 (iii) Any offense that is not a theft offense and that is used to increase the level of the theft
42 offense under Subsection (2)(a) may be prosecuted as a separate offense and need not be dismissed
43 in order to aggregate under Subsection (2)(a).

44 (3) Subsection (2) does not limit additional or alternative aggregation or enhancement of
45 theft offenses under any other provision of law.

46 [(2)] (4) Any person who violates Subsection 76-6-408(1) or Section 76-6-413, or commits
47 theft of property described in Subsection 76-6-412(1)(b)(iii), is civilly liable for three times the
48 amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable
49 attorneys' fees.

Legislative Review Note
as of 12-23-98 8:16 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel