

Calvin R. Musselman proposes the following substitute bill:

Theft Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin R. Musselman

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses offenses related to theft.

Highlighted Provisions:

This bill:

▸ amends, in certain circumstances, when a previous conviction for a theft, robbery, burglary, or fraud may enhance the penalty for the offense of theft of service to a third degree felony;

▸ makes a technical correction in the offense of retail theft clarifying, in certain circumstances, when the offense applies; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-409, as last amended by Laws of Utah 2025, Chapter 178

76-6-602, as last amended by Laws of Utah 2025, Chapter 434

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

Section 1. Section **76-6-409** is amended to read:

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

- 30 service, steam, admission to entertainment, an exhibition, a sporting event, or
31 other event for which a charge is made;
- 32 (ii) gas, electricity, water, sewer, or cable television service, only if the service is
33 obtained by threat, force, or a form of deception not described in Section
34 76-6-409.3; and
- 35 (iii) telephone service, only if the service is obtained by threat, force, or a form of
36 deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or
37 76-6-409.9.
- 38 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 39 (2) An actor commits theft of service if:
- 40 (a) the actor, by deception, threat, force, or another means designed to avoid due
41 payment, obtains a service that the actor knows is available only for compensation; or
- 42 (b) the actor:
- 43 (i) has control over the disposition of another person's service; and
- 44 (ii)(A) diverts the other person's service to the benefit of the actor, knowing that
45 the actor is not entitled to the service; or
- 46 (B) diverts the other person's service to the benefit of a third person, knowing that
47 the third person is not entitled to the service.
- 48 (3) A violation of Subsection (2) is:
- 49 (a) a second degree felony if the value of the service is or exceeds \$5,000;
- 50 (b) except as provided in Subsection (3)(a), a third degree felony if:
- 51 (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;
- 52 (ii) the value of the service is or exceeds \$500 and the actor has been twice before
53 convicted of any of the following offenses, if each prior offense was committed
54 within 10 years before the date of the current conviction or the date of the offense
55 upon which the current conviction is based and at least one of those convictions is
56 for a class A misdemeanor:
- 57 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 58 (B) any offense under Part 5, Fraud;
- 59 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
- 60 (D) any offense in another jurisdiction, including a state, federal, or military court,
61 that is substantially equivalent to an offense under Subsection (3)(b)(ii)(A),
62 (B), or (C);
- 63 (iii)(A) the value of the service is or exceeds \$500 but is less than \$1,500;

- 64 (B) the theft occurs on a property where the offender has committed any theft
 65 within the past five years; and
- 66 (C) the offender has received written notice from the merchant prohibiting the
 67 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 68 (iv)(A) the service is a service other than a public transportation service; and
 69 (B) the actor has been previously convicted of a felony violation of any of the
 70 offenses listed in Subsections (3)(b)(ii)(A) through (D), if the prior offense was
 71 committed within 10 years before the date of the current conviction or the date
 72 of the offense upon which the current conviction is based;
- 73 (c) except as provided in Subsection (3)(a) or (b), a class A misdemeanor if:
- 74 (i) the value of the service stolen is or exceeds \$500 but is less than \$1,500;
 75 (ii)(A) the value of the service is less than \$500;
 76 (B) the theft occurs on a property where the offender has committed any theft
 77 within the past five years; and
- 78 (C) the offender has received written notice from the merchant prohibiting the
 79 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 80 (iii) the actor has been twice before convicted of any of the offenses listed in
 81 Subsections (3)(b)(ii)(A) through (D), if each prior offense was committed within
 82 10 years before the date of the current conviction or the date of the offense upon
 83 which the current conviction is based; or
- 84 (d) except as provided in Subsection (3)(a), (b), or (c), a class B misdemeanor if the
 85 value of the service is less than \$500~~and the theft is not an offense under Subsection~~
 86 ~~(3)(e)]~~.

87 Section 2. Section **76-6-602** is amended to read:

88 **76-6-602 . Retail theft.**

- 89 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
- 90 (2) An actor commits retail theft if the actor knowingly:
- 91 (a) takes possession of, conceals, carries away, transfers or causes to be carried away or
 92 transferred, any merchandise displayed, held, stored, or offered for sale in a retail
 93 mercantile establishment with the intention of:
- 94 (i) retaining the merchandise without paying the retail value of the merchandise; or
 95 (ii) depriving the merchant permanently of the possession, use or benefit of such
 96 merchandise without paying the retail value of the merchandise;
- 97 (b)(i) alters, transfers, or removes any label, price tag, marking, indicia of value, or

- 98 any other markings which aid in determining value of any merchandise displayed,
99 held, stored, or offered for sale, in a retail mercantile establishment; and
- 100 (ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally
101 or in consort with another at less than the retail value with the intention of
102 depriving the merchant of the retail value of the merchandise;
- 103 (c) transfers any merchandise displayed, held, stored, or offered for sale in a retail
104 mercantile establishment from the container in or on which the merchandise is
105 displayed to any other container with the intention of depriving the merchant of the
106 retail value of the merchandise;
- 107 (d) under-rings with the intention of depriving the merchant of the retail value of the
108 merchandise; or
- 109 (e) removes a shopping cart from the premises of a retail mercantile establishment with
110 the intent of depriving the merchant of the possession, use, or benefit of the shopping
111 cart.
- 112 (3) A violation of Subsection (2) is:
- 113 (a) a second degree felony if the:
- 114 (i) retail value of the merchandise or shopping cart is or exceeds \$5,000;
115 (ii) merchandise stolen is a firearm or an operable motor vehicle;
- 116 (b) a third degree felony if:
- 117 (i) the retail value of the merchandise is or exceeds \$1,500 but is less than \$5,000;
118 (ii) the retail value of the merchandise or shopping cart is or exceeds \$500 and the
119 actor has been twice before convicted of any of the following offenses, if each
120 prior offense was committed within 10 years before the date of the current
121 conviction or the date of the offense upon which the current conviction is based
122 and at least one of those convictions is for a class A misdemeanor:
- 123 (A) any theft, any robbery, or any burglary with intent to commit theft;
124 (B) any offense under Part 5, Fraud;
125 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
126 (D) any offense in another jurisdiction, including a state, federal, or military court,
127 that is substantially equivalent to an offense under Subsection (3)(b)(ii)(A), (B),
128 or (C);
- 129 (iii)(A) the retail value of merchandise or shopping cart is or exceeds \$500 but is
130 less than \$1,500;
131 (B) the theft occurs in a retail mercantile establishment or on the premises of a

- 132 retail mercantile establishment where the offender has committed any theft
133 within the past five years; and
- 134 (C) the offender has received written notice from the merchant prohibiting the
135 offender from entering the retail mercantile establishment or premises of a
136 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 137 (iv) the actor has been previously convicted of a felony violation of any of the
138 offenses listed in Subsections (3)(b)(ii)(A) through (D), if the prior offense was
139 committed within 10 years before the date of the current conviction or the date of
140 the offense upon which the current conviction is based;
- 141 (c) a class A misdemeanor if:
- 142 (i) the retail value of the merchandise or shopping cart stolen is or exceeds \$500 but
143 is less than \$1,500;
- 144 (ii)(A) the retail value of merchandise or shopping cart is less than \$500;
- 145 (B) the theft occurs in a retail mercantile establishment or premises of a retail
146 mercantile establishment where the offender has committed any theft within
147 the past five years; and
- 148 (C) the offender has received written notice from the merchant prohibiting the
149 offender from entering the retail mercantile establishment or premises of a
150 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 151 (iii) the actor has been twice before convicted of any of the offenses listed in
152 Subsections (3)(b)(ii)(A) through (D), if each prior offense was committed within
153 10 years before the date of the current conviction or the date of the offense upon
154 which the current conviction is based; or
- 155 (d) a class B misdemeanor if the retail value of the merchandise or shopping cart stolen
156 is less than \$500 and the theft is not an offense under Subsection (3)(c).
- 157 (4)(a) A court shall impose the mandatory jail sentence described in Subsection (4)(b),
158 and may not suspend any portion of the jail sentence or grant early release, if:
- 159 (i) the court suspends the imposition of a prison sentence for a felony conviction
160 under this section or sentences an actor for a misdemeanor violation of this section;
- 161 (ii)(A) the violation is the actor's second or subsequent conviction for any level of
162 offense under this section; or
- 163 (B) the actor previously has been convicted of a criminal violation in another
164 jurisdiction, including a state or federal court, that is substantially equivalent to
165 the violation of this section; and

166 (iii) the actor previously has been convicted of reentry of a removed alien under 8
167 U.S.C. Sec. 1326.

168 (b) The mandatory jail sentences referred to in Subsection (4)(a) are:

169 (i) for a felony or a class A misdemeanor, 360 days in jail;

170 (ii) for a class B misdemeanor, 180 days in jail; and

171 (iii) for a class C misdemeanor, 90 days in jail.

172 (c)(i) Except as provided in Subsection (4)(c)(ii), an actor who is subject to a
173 mandatory jail sentence under Subsection (4)(a) may not be released to the federal
174 Immigration and Customs Enforcement Agency of the United States Department
175 of Homeland Security for deportation until the actor has served the entire jail
176 sentence described in Subsection (4)(b).

177 (ii) An actor may be released to the federal Immigration and Customs Enforcement
178 Agency of the United States Department of Homeland Security for deportation at
179 any time during the 14-day period before the final day of the actor's jail sentence
180 described in Subsection (4)(b).

181 **Section 3. Effective Date.**

182 This bill takes effect on May 6, 2026.