

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

TITLE 76, CHAPTER 6, PARTS 1 THROUGH 4

LONG TITLE

General Description:

This bill

Highlighted Provisions:

This bill:

►

Money Appropriated in this Bill:

None

Other Special Clauses:

None

List of sections affected:

AMENDS:

76-6-101

76-6-102

76-6-103

76-6-104

76-6-104.5

76-6-105

76-6-106

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59 ENACTS:
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63 REPEALS AND REENACTS:

64

65 RENUMBERS AND AMENDS:

66 76-6-107.1 (Renumbered from 76-3-410)

67 76-6-109 (Renumbered from 76-3-203.15)

68 76-6-110 (Renumbered from 76-3-203.16)

69

70 REPEALS:

71

72 Statutory text:

73 **76-6-101. Definitions.**

74 (1) ~~[For purposes of this chapter]~~ As used in this part:

75 (a) "Etching" means defacing, damaging, or destroying hard surfaces by means of an
76 abrasive object, a knife, or an engraving device, or a chemical action which uses any caustic
77 cream, gel, liquid, or solution.

78 (b) "Fire" means a flame, heat source capable of combustion, or material capable of
79 combustion that is caused, set, or maintained by a person for any purpose.

80 (c) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching,
81 painting, affixing, etching, or inscribing on the property of another regardless of the content or
82 the nature of the material used in the commission of the act.

83 ~~[(b)]~~ (d) "Habitable structure" means any building, vehicle, trailer, railway car, aircraft,
84 or watercraft used for lodging or assembling persons or conducting business whether a
85 person is actually present or not.

86 ~~[(c)]~~ (e) "Property" means:

87 (i) any form of real property or tangible personal property which is capable of being
88 damaged or destroyed and includes a habitable structure; and

89 (ii) the property of another, if anyone other than the actor has a possessory or
90 proprietary interest in any portion of the property.

91 ~~[(d)]~~ (f) "Value" means:

92 (i) the market value of the property, if totally destroyed, at the time and place of the
93 offense, or where cost of replacement exceeds the market value; or

94 (ii) where the market value cannot be ascertained, the cost of repairing or replacing

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95 the property within a reasonable time following the offense.

96 (2) Terms defined in Section 76-1-101.5 apply to this part.

97 ~~[(2)]~~ (3) If the property damaged has a value that cannot be ascertained by the criteria
98 set forth in Subsection (1) ~~[(d)]~~ (e), the property shall be considered to have a value less than
99 \$500.

100

101 **76-6-102. Arson.**

102 (1) Terms defined in Sections 76-6-101 and 76-1-101.5 apply to this section.

103 ~~[(1)]~~ (2) ~~[A person is guilty of]~~ An actor commits arson if, under circumstances not
104 amounting to aggravated arson, the person by means of fire or explosives unlawfully and
105 intentionally damages:

106 (a) any property with intention of defrauding an insurer; or

107 (b) the property of another.

108 ~~[(2)]~~ (3)(a) A violation of Subsection ~~[(1)]~~ (2) (a) is a second degree felony.

109 ~~[(3)]~~ (b) A violation of Subsection ~~[(1)]~~ (2) (b) is a second degree felony if:

110 ~~[(a)]~~ (i) the damage caused is or exceeds \$5,000 in value;

111 ~~[(b)]~~ (ii) as a proximate result of the fire or explosion, any person not a participant in
112 the offense suffers serious bodily injury as defined in Section 76-1-601;

113 ~~[(c)]~~ (i) ~~[(iii)]~~ (A) the damage caused is or exceeds \$1,500 but is less than \$5,000 in
114 value; and

115 ~~[(ii)]~~ (B) at the time of the offense the actor has been previously convicted of a
116 violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior
117 to the commission of the violation of Subsection ~~[(1)]~~ (2) (b).

118 ~~[(4)]~~ (c) A violation of Subsection ~~[(1)]~~ (2) (b) is a third degree felony if:

119 ~~[(a)]~~ (i) the damage caused is or exceeds \$1,500 but is less than \$5,000 in value;

120 ~~[(b)]~~ (ii) as a proximate result of the fire or explosion, any person not a participant in
121 the offense suffers substantial bodily injury as defined in Section 76-1-601;

122 ~~[(c)]~~ (iii) the fire or explosion endangers human life; or

123 ~~[(d)]~~ (i) ~~[(iv)]~~ (A) the damage caused is or exceeds \$500 but is less than \$1,500 in value;

124 and

125 ~~[(ii)]~~ (B) at the time of the offense the actor has been previously convicted of a

126 violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior

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127 to the commission of the violation of Subsection ~~[(1)]~~ (2) (b).

128 ~~[(5)]~~ (d) A violation of Subsection ~~[(1)]~~ (2) (b) is a class A misdemeanor if the damage
129 caused:

130 ~~[(a)]~~ (i) is or exceeds \$500 but is less than \$1,500 in value; or

131 ~~[(b)-(f)]~~ (ii)(A) is less than \$500; and

132 ~~[(iii)]~~ (B) at the time of the offense the actor has been previously convicted of a
133 violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior
134 to the commission of the violation of Subsection ~~[(1)]~~ (2) (b).

135 ~~[(6)]~~ (e) A violation of Subsection ~~[(1)]~~ (2) (b) is a class B misdemeanor if the damage
136 caused is less than \$500.

137

138 **76-6-103. Aggravated arson.**

139 (1) Terms defined in Sections 76-6-101 and 76-1-101.5 apply to this section.

140 ~~(2) [A person is guilty of]~~ An actor commits aggravated arson if by means of fire or
141 explosives ~~[he]~~ the actor intentionally and unlawfully damages:

142 (a) a habitable structure; or

143 (b) any structure or vehicle when any person not a participant in the offense is in the
144 structure or vehicle.

145 ~~[(2)]~~ (3) ~~[Aggravated arson]~~ A violation of Subsection (2) is a first degree felony ~~[of~~
146 the first degree].

147

148 **76-6-104. Reckless burning.**

149 (1) Terms defined in Sections 76-6-101 and 76-1-101.5 apply to this section.

150 ~~[(1)]~~ (2) ~~[A person is guilty of]~~ an actor commits reckless burning if the ~~[person]~~ actor :

151 (a) recklessly starts a fire or causes an explosion which endangers human life;

152 (b) having started a fire, whether recklessly or not, and knowing that it is spreading
153 and will endanger the life or property of another, either fails to take reasonable measures to
154 put out or control the fire or fails to give a prompt fire alarm;

155 (c) builds or maintains a fire without taking reasonable steps to remove all flammable
156 materials surrounding the site of the fire as necessary to prevent the fire's spread or escape;
157 or

158 (d) damages the property of another by reckless use of fire or causing an explosion.

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~~[(2)]~~ (3) (a) A violation of Subsection ~~[(1)]~~ (2) (a) or (b) is a class A misdemeanor.

(b) A violation of Subsection ~~[(1)]~~ (2) (c) is a class B misdemeanor.

(c) A violation of Subsection ~~[(1)]~~ (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 ~~[(1)]~~ (2) (d) is an infraction.

76-6-104.5. ~~[Abandoned]~~ Abandonment of a fire -- Penalties.

(1) Terms defined in Sections 76-6-101 and 76-1-101.5 apply to this section.

~~[(1) A person is guilty of abandoning]~~ (2) An actor commits abandonment of a fire if, under circumstances not amounting to the offense of arson, aggravated arson, or causing a catastrophe, ~~[under Title 76, Chapter 6, Part 1, Property Destruction,]~~ the ~~[person]~~ actor leaves a fire:

(a) without first completely extinguishing it; and

(b) with the intent to not return to the fire.

~~[(2) A person does not commit a violation of Subsection (1) if the person leaves a fire to report an uncontrolled fire.]~~

(3) A violation of Subsection ~~[(1)]~~ (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.

~~[(4)]~~ (5) If a violation of Subsection ~~[(1)]~~ (2) involves a wildland fire, the ~~[violation]~~ actor is also liable for suppression costs under Section 65A-3-4.

~~[(5)]~~ (6) A fire spreading or reigniting is prima facie evidence that the ~~[person]~~ actor did not completely extinguish the fire as required by Subsection ~~[(1)]~~ (2) (a).

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

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(1) Terms defined in Sections 76-6-101 and 76-1-101.5 apply to this section.

~~[(1) Any person is guilty of]~~ (2) An actor commits causing a catastrophe if the [person]

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.

~~[(2) Causing a catastrophe]~~ (3) A violation of Subsection (2) is:

(a) a first degree felony if the [person] actor causes the catastrophe knowingly and by the use of a weapon of mass destruction;

(b) a second degree felony if the [person] actor causes the catastrophe knowingly and by a means other than a weapon of mass destruction; and

(c) a class A misdemeanor if the [person] actor causes the catastrophe recklessly.

~~[(3)]~~ (4) In addition to any other penalty authorized by law, a court shall order [any person] 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.

76-6-106. Criminal mischief.

(1) (a) As used in this section, "critical infrastructure" includes:

~~[(a)]~~ (i) information and communication systems;

~~[(b)]~~ (ii) financial and banking systems;

~~[(c)]~~ (iii) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed guideways, or other transportation systems intended for the transportation of persons or property;

~~[(d)]~~ (iv) any public utility service, including the power, energy, and water supply systems;

~~[(e)]~~ (v) sewage and water treatment systems;

~~[(f)]~~ (vi) health care facilities as listed in Section 26-21-2, and emergency fire, medical, and law enforcement response systems;

~~[(g)]~~ (vii) public health facilities and systems;

~~[(h)]~~ (viii) food distribution systems; and

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223 ~~[(i)]~~ (ix) other government operations and services.

224 (b) Terms defined in Sections 76-6-101 and 76-1-101.5 apply to this section.

225 (2) ~~[A person]~~ An actor commits criminal mischief if the ~~[person]~~ actor :

226 ~~[(a) under circumstances not amounting to arson, damages or destroys property with~~

227 ~~the intention of defrauding an insurer;]~~

228 ~~[(b)]~~ (a) intentionally and unlawfully tampers with the property of another and as a

229 result:

230 (i) recklessly endangers:

231 (A) human life; or

232 (B) human health or safety; or

233 (ii) recklessly causes or threatens a substantial interruption or impairment of any

234 critical infrastructure; or

235 ~~[(c) intentionally damages, defaces, or destroys the property of another; or]~~

236 ~~[(d)]~~ (b) recklessly or willfully shoots or propels a missile or other object at or against

237 a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether

238 moving or standing.

239 ~~[(3) (a) (i) A violation of Subsection (2)(a) is a third degree felony.]~~

240 ~~[(ii)]~~ (3)(a) A violation of Subsection (2)~~[(b)]~~ (a) (i)(A) is a class A misdemeanor.

241 ~~[(iii)]~~ (b) A violation of Subsection (2)~~[(b)]~~ (a) (i)(B) is a class B misdemeanor.

242 ~~[(iv)]~~ (c) A violation of Subsection (2)~~[(b)]~~ (a) (ii) is a second degree felony.

243 ~~[(b)]~~ (d) Any other violation of this section is a:

244 (i) second degree felony if the actor's conduct causes or is intended to cause

245 pecuniary loss equal to or in excess of \$5,000 in value;

246 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary

247 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;

248 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause

249 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and

250 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause

251 pecuniary loss less than \$500 in value.

252 (4) In determining the value of damages under this section, or for computer crimes

253 under Section 76-6-703, the value of any item, computer, computer network, computer

254 property, computer services, software, or data includes the measurable value of the loss of

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255 use of the items and the measurable cost to replace or restore the items.

256 (5) In addition to any other penalty authorized by law, a court shall order [any person]
257 an actor convicted of any violation of this section to reimburse any federal, state, or local unit
258 of government, or any private business, organization, individual, or entity for all expenses
259 incurred in responding to a violation of Subsection (2)~~[(b)]~~ (a) (ii), unless the court states on
260 the record the reasons why the reimbursement would be inappropriate.

261

262 **76-6-106.1. Property destruction.**

263 (1) Terms defined in Sections 76-1-101.5, 76-6-101, and 76-6-106 apply to this
264 section.

265 (2) An actor commits property destruction if the actor :

266 (a) under circumstances not amounting to arson, damages or destroys property with
267 the intention of defrauding an insurer; or

268 (b) intentionally damages, defaces, or destroys the property of another.

269 (3) (a) A violation of Subsection (2)(a) is a third degree felony.

270 (b) Any other violation of this section is a:

271 (i) second degree felony if the actor's conduct causes or is intended to cause
272 pecuniary loss equal to or in excess of \$5,000 in value;

273 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary
274 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;

275 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause
276 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and

277 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause
278 pecuniary loss less than \$500 in value.

279 (4) In determining the value of damages under this section, or for computer crimes
280 under Section 76-6-703, the value of any item, computer, computer network, computer
281 property, computer services, software, or data includes the measurable value of the loss of
282 use of the items and the measurable cost to replace or restore the items.

283 **76-6-107. [Graffiti] Defacement by graffiti defined -- Penalties -- Removal costs**
284 **-- Reimbursement liability -- Victim liability.**

285 (1)(a) As used in this section [:], "victim" means the person whose property is defaced
286 or damaged by graffiti and who bears the expense for removal of the graffiti.

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287 ~~[(a) "Etching" means defacing, damaging, or destroying hard surfaces by means of a~~
288 ~~chemical action which uses any caustic cream, gel, liquid, or solution.~~
289 ~~—— (b) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching,~~
290 ~~affixing, etching, or inscribing on the property of another regardless of the content or the~~
291 ~~nature of the material used in the commission of the act.~~
292 ~~—— (c) "Victim" means the person whose property is defaced by graffiti and who bears the~~
293 ~~expense for removal of the graffiti.]~~
294 (b) Terms defined in Sections 76-6-101 and 76-1-101.5 apply to this section.
295 (2) An actor commits defacement by graffiti if the actor, without permission, defaces or
296 damages the property of another by graffiti.
297 ~~[(2) Except as provided in Section 76-6-107, graffiti is a:]~~
298 (3) A violation of Subsection (2) is a:
299 (a) second degree felony if the damage caused is in excess of \$5,000;
300 (b) third degree felony if the damage caused is equal to or in excess of \$1,000 but
301 less than \$5,000;
302 (c) class A misdemeanor if the damage caused is equal to or in excess of \$300 but
303 less than \$1,000; and
304 (d) class B misdemeanor if the damage caused is less than \$300.
305 ~~[(3)]~~ (4) Damages under Subsection ~~[(2)]~~ (3) include removal costs, repair costs, or
306 replacement costs, whichever is less.
307 ~~[(4)]~~ (5) The court shall order an individual convicted under Subsection ~~[(2)]~~ (3) to pay
308 restitution to the victim in an amount equal to the costs incurred by the victim as a result of
309 the graffiti.
310 ~~[(5)]~~ (6) An additional amount of \$1,000 in restitution shall be added to removal costs
311 if the graffiti is positioned on an overpass or an underpass, requires that traffic be interfered
312 with in order to remove it, or the entity responsible for the area in which the clean-up is to
313 take place must provide assistance in order for the removal to take place safely.
314 ~~[(6)]~~ (7) An individual who voluntarily, at the individual's own expense, and with the
315 consent of the property owner, removes graffiti for which the individual is responsible may be
316 credited for the removal costs against restitution ordered by a court.
317 ~~[(7)]~~ (8) Before an authorized government agency may issue a citation or assess a
318 fine to a victim for the victim's failure to remove graffiti from the victim's property, the agency

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319 shall:

320 (a) provide written notice to the victim alerting the victim of the graffiti;

321 (b) allow the victim one week after the day on which the agency provides written
322 notice of the graffiti to remove the graffiti; and

323 (c) provide the victim with a list of resources available to assist the victim with removal
324 of the graffiti.

325 ~~[(8)]~~ (9) (a) After receiving notification of graffiti under Subsection ~~[(7)]~~ (8) (a), a victim
326 who is unable to remove the graffiti due to physical or financial hardship may alert the agency
327 that provided notice under Subsection ~~[(7)]~~ (8) (a) of the hardship.

328 (b) If an authorized government agency finds a victim has demonstrated that the
329 victim would experience significant hardship in removing the graffiti, the agency:

330 (i) may not issue a citation or assess a fee to the victim for failure to remove the
331 graffiti; and

332 (ii) shall provide, or hire an outside entity to provide, the assistance necessary to
333 remove the graffiti from the victim's property.

334 (c) An authorized government agency that provides, or hires an outside agency to
335 provide, assistance under Subsection ~~[(8)]~~ (9) (b)(ii), may request reimbursement from a
336 restitution order, under Subsection ~~[(4)]~~ (5), against an individual who used graffiti to
337 damage the property that the agency removed, or paid another to remove.

338

339 **76-6-107.5. ~~[Vandalism of]~~ Defacing by graffiti on public lands.**

340 (1)(a) As used in this section~~[:]~~ , "public lands" means state or federally owned
341 property that is held substantially in its natural state, including canyons, parks owned or
342 managed by the state, national parks, land managed by the Bureau of Land Management,
343 and other lands owned or maintained by a government entity for outdoor recreational use.

344 ~~[(a) "Etching" means defacing, damaging, or destroying a hard surface by using a~~
345 ~~chemical, an abrasive object, a knife, or an engraving device.~~

346 ~~—— (b) "Graffiti" means unauthorized printing, spraying, scratching, affixing, etching, or~~
347 ~~inscribing on property owned by the state regardless of the content or the nature of the~~
348 ~~material used in the commission of the act.]~~

349 ~~[(c) "Public lands" means state or federally owned property that is held substantially in~~
350 ~~its natural state, including canyons, parks owned or managed by the state, national parks,~~

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351 ~~land managed by the Bureau of Land Management, and other lands owned or maintained by~~
352 ~~a government entity for outdoor recreational use.]~~

353 (b) Terms defined in Sections 76-6-101 and 76-1-101.5 apply to this section.

354 (2) An ~~[individual is guilty of]~~ actor commits defacing by graffiti on public lands
355 vandalism if the ~~[individual]~~ actor creates, or assists in creating, graffiti on any public lands or
356 state-owned object permanently located on public lands.

357 (3) ~~[An individual convicted under]~~ A violation of Subsection (2) is ~~[guilty of]~~ a class B
358 misdemeanor.

359 (4) If an ~~[individual]~~ actor is convicted of public lands vandalism, the court shall
360 sentence the ~~[individual]~~ actor to a term of community service as follows:

361 (a) for a first conviction, the court shall sentence the ~~[individual]~~ actor to 100 hours of
362 community service, to be completed within 90 days after the day on which the court issues
363 the order;

364 (b) for a second conviction, the court shall sentence the ~~[individual]~~ actor to 200 hours
365 of community service, to be completed within 180 days after the day on which the court
366 issues the order; or

367 (c) for a third or subsequent conviction, the court shall sentence the ~~[individual]~~ actor
368 to 300 hours of community service, to be completed within 270 days after the day on which
369 the court issues the order.

370 (5) If an ~~[individual]~~ actor is enrolled in school or maintains full or part-time
371 employment, the ordered community service may not be scheduled at a time the ~~[individual]~~
372 actor is scheduled to be in school or performing the individual's employment duties.

373 (6) A sentence of community service described in Subjection (4) shall, to the greatest
374 extent possible, be for the benefit of public lands.

375 (7) If an ~~[individual]~~ actor is convicted of public lands vandalism, the court may
376 impose a fine up to the full amount of the estimated cost to restore the damaged land,
377 caused by the ~~[individual]~~ actor, to the land's original state.

378 (8) An ~~[individual]~~ actor who voluntarily, at the ~~[individual's]~~ actor's own expense, and
379 with the consent of the property owner, removes graffiti for which the ~~[individual]~~ actor is
380 responsible shall be credited for costs ordered by the court under Subsection (7).

381

382 **76-6-108. Damage to or interruption of a communication device -- Penalty.**

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

~~(a)~~ (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.

~~(b)~~ (ii) "Emergency aid" means aid or assistance, including law enforcement, fire, or medical services, commonly summoned by persons concerned with imminent or actual:

~~(i)~~ (A) jeopardy to any person's health or safety; or

~~(ii)~~ (B) damage to any person's property.

(b) Terms defined in Sections 76-6-101 and 76-1-101.5 apply to this section.

(2) ~~[A person is guilty of]~~ 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) ~~[Damage to or interruption of a communication device]~~ A violation of Subsection (2) is a class B misdemeanor.

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

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

~~(a)~~ (i) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

~~(b)~~ (ii) "Livestock" means a domestic animal or fur bearer raised or kept for profit or as an asset, including:

~~(i)~~ (A) cattle;

~~(ii)~~ (B) sheep;

~~(iii)~~ (C) goats;

~~(iv)~~ (D) swine;

~~(v)~~ (E) horses;

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~~[(vi)]~~ (F) mules;

~~[(vii)]~~ (G) poultry;

~~[(viii)]~~ (H) domesticated elk as defined in Section 4-39-102; and

~~[(ix)]~~ (I) livestock guardian dogs.

~~[(c)]~~ (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 76-6-101 and 76-1-101.5 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, ~~[a person is guilty of]~~ an actor commits wanton destruction of livestock if ~~[that person]~~ 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) 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).]~~

~~[(4)]~~ (3) ~~[Wanton destruction of livestock]~~ A violation of Subsection (2) is ~~[punishable as]~~ 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 ~~[a person]~~ 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.

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447 (6) The minimum restitution value for cattle and sheep is the sum of the following,
448 unless the court states on the record why it finds the sum to be inappropriate:

449 (a) the fair market value of the animal, using as a guide the market information
450 obtained from the Department of Agriculture and Food created under Section 4-2-102; and(b)
451 10 years times the average annual value of offspring, for which average annual value is
452 determined using data obtained from the National Agricultural Statistics Service within the
453 United States Department of Agriculture, for the most recent 10-year period available.

454 (7) A material, device, or vehicle used in violation of Subsection (2) is subject to
455 forfeiture under the procedures and substantive protections established in Title 24, Forfeiture
456 and Disposition of Property Act.

457 (8) A peace officer may seize a material, device, or vehicle used in violation of
458 Subsection (2):

459 (a) upon notice and service of process issued by a court having jurisdiction over the
460 property; or

461 (b) without notice and service of process if:

462 (i) the seizure is incident to an arrest under:

463 (A) a search warrant; or

464 (B) an inspection under an administrative inspection warrant;

465 (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of
466 the state in a criminal injunction or forfeiture proceeding under this section; or

467 (iii) the peace officer has probable cause to believe that the property has been used
468 in violation of Subsection (2).

469 (9) (a) A material, device, or vehicle seized under this section is not repleviable but is
470 in custody of the law enforcement agency making the seizure, subject only to the orders and
471 decrees of a court or official having jurisdiction.

472 (b) A peace officer who seizes a material, device, or vehicle under this section may:

473 (i) place the property under seal;

474 (ii) remove the property to a place designated by the warrant under which it was
475 seized; or

476 (iii) take custody of the property and remove it to an appropriate location for
477 disposition in accordance with law.

478

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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 76-6-101 and 76-1-101.5 apply to this section.

(2) ~~[A person is guilty of]~~ An actor commits agricultural operation interference if the ~~[person]~~ 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 ~~[person]~~ 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 ~~[person who commits agricultural operation interference described in]~~ violation of Subsection (2)(a) is ~~[guilty of]~~ a class A misdemeanor.

~~[(4)]~~ (b) A ~~[person who commits agricultural operation interference described in]~~ violation of Subsection (2)(b), (c), or (d) is ~~[guilty of]~~ a class B misdemeanor.

76-6-202. Burglary.

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

~~[(1)]~~ (2) An actor ~~[is guilty of]~~ commits burglary ~~[who]~~ if the actor:

(a) enters or remains unlawfully in a building or any portion of a building ~~[with intent]~~ ; and

(b) intends to commit:

~~[(a)]~~ (i) a felony;

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511 ~~[(b)]~~ (ii) theft;

512 ~~[(c)]~~ (iii) an assault on any person;

513 ~~[(d)]~~ (iv) lewdness, [a] in violation of Section 76-9-702;

514 ~~[(e)]~~ (v) sexual battery, [a] in violation of Section 76-9-702.1;

515 ~~[(f)]~~ (vi) lewdness involving a child, in violation of Section 76-9-702.5; or

516 ~~[(g)]~~ (vii) voyeurism ~~[under]~~ , in violation of Section 76-9-702.7.

517 ~~[(2) Burglary]~~ (3) (a) Except as provided in Subsection (2)(b), a violation of

518 Subsection (2) is a third degree felony ~~[unless it was committed in a dwelling, in which event~~

519 ~~it is a second degree felony]~~.

520 (b) A violation of Subsection (2) is a second degree felony if the violation is committed in a

521 dwelling.

522 ~~[(3)]~~ (4) A violation of this section is a separate offense from any of the offenses

523 listed in Subsections ~~[(1)(a) through (g)]~~ (2)(b)(i) through (vii), and which may be committed

524 by the actor while in the building.

525 **76-6-203. Aggravated burglary.**

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

527 ~~[(1) A person is guilty of]~~ (2) An actor commits aggravated burglary if in attempting,

528 committing, or fleeing from a burglary the actor or another participant in the crime:

529 (a) causes bodily injury to any person who is not a participant in the crime;

530 (b) uses or threatens the immediate use of a dangerous weapon against any person

531 who is not a participant in the crime; or

532 (c) possesses or attempts to use any explosive or dangerous weapon.

533 ~~[(2) Aggravated burglary]~~ (3) A violation of Subsection (2) is a first degree felony.

534 ~~[(3) As used in this section, "dangerous weapon" has the same definition as under~~

535 ~~Section 76-1-101.5.]~~

536 **76-6-204. Burglary of a vehicle -- Charge of other offense.**

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

538 ~~[(1) Any person who]~~ (2) An actor commits burglary of a vehicle if the actor unlawfully

539 enters any vehicle with intent to commit a felony or theft ~~[is guilty of a burglary of a vehicle]~~.

540 ~~[(2) Burglary of a vehicle]~~ (3) A violation of Subsection (2) is a class A misdemeanor.

541 ~~[(3)]~~ (4) A charge against ~~[any person]~~ an actor for a violation of Subsection ~~[(1)]~~

542 ~~shall]~~ (2) does not preclude a charge for a commission of any other offense.

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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.

~~[(1) Any person]~~ (2) An actor commits burglary of a railroad car ~~[when the person]~~ if
the actor breaks the lock or seal on any railroad car, with the intent to commit a felony or
theft.

~~[(2) Burglary of a railroad car]~~ (3) A violation of Subsection (2) is a third degree
felony.

~~[(3)]~~ (4) Charging a person for a violation of Subsection ~~[(1)]~~ (2) does not preclude
charging the person for any other offense.

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.

~~[Any person who]~~ (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 ~~[some]~~ another person intends to use the same in the commission of a burglary or theft
~~[is guilty of]~~.

(3) A violation of Subsection (2) is a class B misdemeanor.

76-6-206. Criminal trespass.

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

~~[(a)]~~ (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.

~~[(b)]~~ (iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means
remaining on or over private property when:

~~[(i)]~~ (A) the private property or any portion of the private property is not open to the
public; and

~~[(ii)]~~ (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) ~~[A person is guilty of]~~ 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:

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575 (a) the ~~[person]~~ actor enters or remains unlawfully on or causes an unmanned
576 aircraft to enter and remain unlawfully over property and:

577 (i) intends to cause annoyance or injury to any person or damage to any property,
578 including the use of graffiti ~~[as defined in Section 76-6-107]~~;

579 (ii) intends to commit any crime, other than theft or a felony; or

580 (iii) is reckless as to whether the ~~[person's]~~ actor's or unmanned aircraft's presence
581 will cause fear for the safety of another;

582 (b) knowing the ~~[person's]~~ actor's or unmanned aircraft's entry or presence is
583 unlawful, the ~~[person]~~ actor enters or remains on or causes an unmanned aircraft to enter or
584 remain unlawfully over property to which notice against entering is given by:

585 (i) personal communication to the ~~[person]~~ actor by the owner or someone with
586 apparent authority to act for the owner;

587 (ii) fencing or other enclosure obviously designed to exclude intruders; or

588 (iii) posting of signs reasonably likely to come to the attention of intruders; or

589 (c) the ~~[person]~~ actor enters a condominium unit in violation of Subsection 57-8-7(8).

590 (3) (a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless the
591 violation is committed in a dwelling, in which event the violation is a class A misdemeanor.

592 (b) A violation of Subsection (2)(c) is an infraction.

593 (4) It is a defense to prosecution under this section that:

594 (a) the property was at the time open to the public; and

595 (b) the ~~[actor]~~ defendant complied with all lawful conditions imposed on access to or
596 remaining on the property.

597 (5) In addition to an order for restitution under Section 77-38b-205, ~~[a person]~~ an
598 actor who commits a violation of Subsection (2) may also be liable for:

599 (a) statutory damages in the amount of three times the value of damages resulting
600 from the violation of Subsection (2) or \$500, whichever is greater; and

601 (b) reasonable attorney fees not to exceed \$250, and court costs.

602 (6) Civil damages under Subsection (5) may be collected in a separate action by the
603 property owner or the owner's assignee.

604 **76-6-206.1. Criminal trespass of abandoned or inactive mines~~[--Penalty]~~.**

605 (1) (a) For purposes of this section:

606 ~~[(a)]~~ (i) "Abandoned or inactive mine" means an underground mine which is no

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607 longer open for access or no longer under excavation and has been clearly marked as closed
608 or protected from entry.

609 (ii) "Burglary" means the same as that term is defined in Section 76-6-202, 76-6-203,
610 or 76-6-204.

611 ~~[(b)]~~ (iii) "Enter" means intrusion of the entire body.

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

613 (2)~~[A person is guilty of]~~ An actor commits criminal trespass of an abandoned or
614 inactive mine if, under circumstances not amounting to burglary~~[as defined in Section~~
615 ~~76-6-202, 76-6-203, or 76-6-204]~~ , the actor :

616 (a) ~~[the person]~~ intentionally enters and remains unlawfully in the underground
617 workings of an abandoned or inactive mine; or

618 (b) intentionally and without authority removes, destroys, or tampers with any warning
619 sign, covering, fencing, or other method of protection from entry placed on, around, or over
620 any mine shaft, mine portal, or other abandoned or inactive mining excavation property.

621 (3) (a) A violation of Subsection (2)(a) is a class B misdemeanor.

622 ~~[(4)]~~ (b) A violation of Subsection (2)(b) is a class A misdemeanor.

623 **76-6-206.2. Criminal trespass on state park lands** ~~[--Penalties].~~

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

625 ~~[(a)]~~ (i) "Authorization" means specific written permission by, or contractual
626 agreement with, the Division of State Parks.

627 ~~[(b)]~~ (ii) "Criminal trespass" means the elements of the crime of criminal trespass, as
628 set forth in Section 76-6-206.

629 ~~[(c)]~~ (iii) "Division" means the Division of State Parks created in Section 79-4-201.

630 ~~[(d)]~~ (iv) "State park lands" means all lands administered by the division.

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

632 (2) ~~[A person is guilty of]~~ An actor commits criminal trespass on state park lands and
633 is liable for the civil damages prescribed in Subsection (5) if, under circumstances not
634 amounting to a greater offense, and without authorization, the ~~[person]~~ actor :

635 (a) constructs improvements or structures on state park lands;

636 (b) uses or occupies state park lands for more than 30 days after the cancellation or
637 expiration of authorization;

638 (c) knowingly or intentionally uses state park lands for commercial gain;

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639 (d) intentionally or knowingly grazes livestock on state park lands, except as provided
640 in Section 72-3-112; or

641 (e) remains, after being ordered to leave by ~~[someone]~~ a person with actual authority
642 to act for the division, or by a law enforcement officer.

643 (3) A violation of Subsection (2) is a class B misdemeanor.

644 ~~[(3) A person is not guilty of]~~ (4) A person does not commit criminal trespass if that
645 person enters onto state park lands:

646 (a) without first paying the required fee; and

647 (b) for the sole purpose of pursuing recreational activity.

648 ~~[(4) A violation of Subsection (2) is a class B misdemeanor.]~~

649 (5) (a) In addition to an order for restitution under Section 77-38b-205, ~~[a person]~~ an
650 actor who commits any act described in Subsection (2) may also be liable for civil damages
651 in the amount of three times the value of:

652 ~~[(a)]~~ (i) damages resulting from a violation of Subsection (2);

653 ~~[(b)]~~ (ii) the water, mineral, vegetation, improvement, or structure on state park lands
654 that is removed, destroyed, used, or consumed without authorization;

655 ~~[(c)]~~ (iii) the historical, prehistorical, archaeological, or paleontological resource on
656 state park lands that is removed, destroyed, used, or consumed without authorization; or

657 ~~[(d)]~~ (iv) the consideration which would have been charged by the division for
658 unauthorized use of the land and resources during the period of trespass.

659 ~~[(6)]~~ (b) Civil damages awarded under Subsection (5) (a):

660 (i) may be collected in a separate action by the division~~;~~ ; and

661 (ii) shall be deposited in the State Parks Fees Restricted Account as established in
662 Section 79-4-402.

663 **76-6-206.3. Criminal trespass on agricultural land or range land.**

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

665 ~~[(a)]~~ (i) "Agricultural or range land" and "land" mean land as defined under
666 Subsections (1)~~[(d) and (e)]~~ (a)(iv) and (v).

667 ~~[(b)]~~ (ii) "Authorization" means specific written permission by, or contractual
668 agreement with, the owner or manager of the property.

669 ~~[(c)]~~ (iii) "Criminal trespass" means the elements of the crime of criminal trespass
670 under Section 76-6-206.

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~~[(d)]~~ (iv) "Land in agricultural use" has the same meaning as in Section 59-2-502.

~~[(e)]~~ (v)(A) "Range land" means privately owned land that is not fenced or divided into lots and that is generally unimproved.

~~[This land]~~ (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) [A person is guilty of the class B misdemeanor criminal offense of]~~ 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 ~~[person]~~ actor enters or remains on agricultural or range land regarding which notice prohibiting entry is given by:

(a) personal communication to the ~~[person]~~ 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 person is guilty of the class B misdemeanor criminal offense of cutting, destroying, or rendering ineffective the fencing of agricultural or range land if the person willfully cuts, destroys, or renders ineffective any fencing as described under Subsection (2)(b).]~~

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) In addition to an order for restitution under Section 77-38b-205, ~~[a person]~~ an actor who commits any violation of Subsection (2) ~~[or (3)]~~ 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

(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.

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

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

(i) "Burglary" means the same as that term is defined in Section 76-6-202, 76-6-203,

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703 or 76-6-204.

704 ~~[(a)]~~ (ii) "Long-term guest" means an individual who is not a tenant but who is given
705 express or implied permission by the person who is the primary occupant of the residence or
706 someone with apparent authority to act for the primary occupant to enter a portion of a
707 residence or temporarily occupy a portion of a residence:

708 [(i)] (A) for a period of time longer than 48 hours; and

709 [(ii)] (B) without providing the owner or primary occupant of the residence
710 compensation or entering into an agreement that the individual provide labor in lieu of
711 providing the owner or primary occupant compensation for occupying the residence.

712 ~~[(b)]~~ (iii) "Residence" means an improvement to real property used or occupied as a
713 primary or secondary dwelling.

714 ~~[(c)]~~ (iv) "Tenant" means a person who has the right to occupy a residence under a
715 rental agreement or lease, or has a tenancy by operation of law.

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

717 ~~[(2) A long-term guest is guilty of criminal trespass of a residence if, under~~
718 ~~circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or~~
719 ~~76-6-204, the long-term guest]~~

720 (2) An actor commits criminal trespass of a residence if the actor:

721 (a) is a long-term guest; and

722 (b) in circumstances not amounting to burglary, remains in a residence after the

723 ~~[long-term guest]~~ actor receives notice against remaining in the residence by personal

724 communication to the ~~[long-term guest]~~ actor by the person who is the primary occupant of
725 the residence or someone with apparent authority to act for the primary occupant.

726 (3) A violation of Subsection (2) is a class B misdemeanor.

727 (4) Before a law enforcement officer escorts an ~~[individual]~~ actor from a residence
728 for a violation of ~~[this section]~~ Subsection (2), the law enforcement officer shall provide the
729 ~~[individual]~~ actor a reasonable time for the ~~[individual]~~ actor to collect the ~~[individual's]~~
730 actor's personal belongings.

731 **76-6-206.5. Cutting, destroying, or rendering ineffective fencing of agricultural or**
732 **range land.**

733 (1) Terms defined in Sections 76-1-101.5, 76-6-201, and 76-6-206.3 apply to this
734 section.

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(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) reasonable attorney fees not to exceed \$250; and

(b) 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.

76-6-301. Robbery.

~~[(1) A person]~~ (1) (a) As used in this section, an act is considered to be "in the course of committing a theft or wrongful appropriation" if the act occurs:

(i) in the course of an attempt to commit theft or wrongful appropriation;

(ii) in the commission of theft or wrongful appropriation; 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) ~~[the person]~~ unlawfully and intentionally takes or attempts to take personal property in the possession of ~~[another]~~ an individual from ~~[his]~~ the individual's person, or immediate presence, against ~~[his]~~ the individual's will, by means of force or fear, and with a purpose or intent to deprive the ~~[person]~~ individual permanently or temporarily of the personal property; or

(b) ~~[the person]~~ intentionally or knowingly uses force or fear of immediate force against ~~[another]~~ an individual in the course of committing a theft or wrongful appropriation.

~~[(2) An act is considered to be "in the course of committing a theft or wrongful appropriation" if it occurs:~~

~~—— (a) in the course of an attempt to commit theft or wrongful appropriation;~~

~~—— (b) in the commission of theft or wrongful appropriation; or~~

~~—— (c) in the immediate flight after the attempt or commission.]~~

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~~[(3) Robbery is a felony of the]~~ (3) A violation of Subsection (2) is a second degree
felony.

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.

~~[(1) A person]~~ (2) An actor commits aggravated robbery if in the course of committing robbery, ~~[he]~~ the actor:

(a) uses or threatens to use a dangerous weapon ~~[as defined in Section 76-1-101.5];~~

(b) causes serious bodily injury ~~[upon another]~~ to another individual; or

(c) takes or attempts to take an operable motor vehicle.

~~[(2) Aggravated robbery is a first degree felony.~~

~~[(3) For the purposes of this part, an act shall be considered to be "in the course of committing a robbery" if it occurs in an attempt to commit, during the commission of, or in the immediate flight after the attempt or commission of a robbery.]~~ (3) A violation of Subsection (2) is a first degree felony.

76-6-404. Theft -- Elements.

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

(2) [A person] An actor commits theft if ~~[he]~~ the actor obtains or exercises unauthorized control over ~~[the]~~ another person's property ~~[of another]~~ with a purpose to deprive ~~[him thereof]~~ the person of the person's property.

(3) A violation of Subsection (2) is subject to the penalties described in Section 76-6-412.

76-6-404.5. ~~[Wrongful appropriation -- Penalties]~~ Unauthorized possession of property.

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

~~[(1) A person]~~ (2) An actor commits ~~[wrongful appropriation]~~ unauthorized

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799 possession of property if ~~[he]~~ the actor obtains or exercises unauthorized control over ~~[the]~~
800 another person's property ~~[of another,]~~ without the consent of the property's owner or legal
801 custodian . and with the intent to temporarily appropriate, possess, or use the property or
802 to temporarily deprive the property's owner or legal custodian of possession of the property.

803 ~~[(2) The consent of the owner or legal custodian of the property to its control by the~~
804 ~~actor is not presumed or implied because of the owner's or legal custodian's [consent on a~~
805 ~~previous occasion to the control of the property by any person.]~~

806 ~~[(3) Wrongful appropriation]~~ (3) A violation of Subsection (2) is punishable one
807 degree lower than a penalty described in Section 76-6-412 for theft~~[, as provided in Section~~
808 ~~76-6-412, so that a violation which would have been:]~~ .

809 ~~[—— (a) a second degree felony under Section 76-6-412 if it had been theft is a third~~
810 ~~degree felony if it is wrongful appropriation;~~

811 ~~—— (b) a third degree felony under Section 76-6-412 if it had been theft is a class A~~
812 ~~misdemeanor if it is wrongful appropriation;~~

813 ~~—— (c) a class A misdemeanor under Section 76-6-412 if it had been theft is a class B~~
814 ~~misdemeanor if it is wrongful appropriation; and~~

815 ~~—— (d) a class B misdemeanor under Section 76-6-412 if it had been theft is a class C~~
816 ~~misdemeanor if it is wrongful appropriation.]~~

817 (4) ~~[Wrongful appropriation]~~ Unauthorized possession of property is a lesser
818 included offense of the offense of theft under Section 76-6-404.

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

822

823 **76-6-404.7. Theft of motor vehicle fuel.**

824 (1) (a) As used in this section, "motor vehicle fuel" means any combustible gas,
825 liquid, matter, or substance that is used in an internal combustion engine for the generation
826 of power. .

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

828 ~~[(2) A person is guilty of]~~ (2) An actor commits theft of motor vehicle fuel ~~[who]~~ if
829 the actor :

830 (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered

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831 for retail sale when motor fuel has been dispensed into:

832 (i) the fuel tank of the motor vehicle; or

833 (ii) any other container that is then removed from the premises by means of the motor
834 vehicle; and

835 (b) commits the act under Subsection (2)(a) with the intent to deprive the owner or
836 operator of the premises of the motor fuel without making full payment for the fuel.

837 (3) (a) A violation of Subsection (2) is subject to the penalties described in Section
838 76-6-412.

839 (b) (i) In addition to the penalties ~~[for theft under Section 76-6-412]~~ described in Subsection
840 (3)(a), the sentencing court may order the suspension of the driver license of ~~[a person]~~ an
841 actor convicted of theft of motor vehicle fuel. _

842 (ii) The suspension described in Subsection (3)(b)(i) may not be for more than 90 days as
843 provided in Section 53-3-220.

844

845 **76-6-405. Theft by deception.**

846 (1) (a) As used in this section, "puffing" means an exaggerated commendation of
847 wares or worth in a communication addressed to an individual, group, or the public. _

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

849 (2) (a) ~~[A person]~~ An actor commits theft by deception if the ~~[person]~~ actor obtains
850 or exercises control over property of another person:

851 (i) by deception; and

852 (ii) with a purpose to deprive the other person of property.

853 (b) The deception described in Subsection (2)(a)(i) and the deprivation described in
854 Subsection (2)(a)(ii) may occur at separate times.

855 (3) A violation of Subsection (2) is subject to the penalties described in Section
856 76-6-412.

857 ~~[(3)]~~ (4) Theft by deception does not occur when there is only:

858 (a) falsity as to matters having no pecuniary significance; or

859 (b) puffing by statements unlikely to deceive an ordinary person in the group
860 addressed.

861

862 **76-6-406. Theft by extortion.**

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863 ~~[(1) An actor is guilty of theft if the actor obtains or exercises control over the property~~
864 ~~of another person by extortion and with a purpose to deprive the person of the person's~~
865 ~~property.]~~

866 ~~[(2)]~~ (1) (a) As used in this section, extortion occurs when an actor threatens to:
867 ~~[(a)]~~ (i) cause physical harm in the future to the person threatened ~~[-or]~~ . to any
868 other person . or to property at any time;
869 ~~[(b)]~~ (ii) subject the person threatened or any other person to physical confinement or
870 restraint;
871 ~~[(c)]~~ (iii) engage in other conduct constituting a crime;
872 ~~[(d)]~~ (iv) accuse any person of a crime or expose any person to hatred, contempt, or
873 ridicule;
874 ~~[(e)]~~ (v) reveal any information sought to be concealed by the person threatened;
875 ~~[(f)]~~ (vi) testify ~~[or]~~ . provide information . or withhold testimony or information with
876 respect to a person's legal claim or defense;
877 ~~[(g)]~~ (vii) take action as an official against anyone or anything, or withhold official
878 action, or cause such action or withholding;
879 ~~[(h)]~~ (viii) bring about or continue a strike, boycott, or other similar collective action to
880 obtain property that is not demanded or received for the benefit of the group that the actor
881 purports to represent; or
882 ~~[(i)]~~ (ix) do any other act which would not in itself substantially benefit the actor but
883 which would harm substantially any other person with respect to that person's health, safety,
884 business, calling, career, financial condition, reputation, or personal relationships.

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

886 (2) An actor commits theft by extortion if the actor obtains or exercises control over the
887 property of another person by extortion and with a purpose to deprive the person of the
888 person's property.

889 (3) A violation of Subsection (2) is subject to the penalties described in Section 76-6-412.

890 ~~[(3)]~~ (4) (a) A person who is adversely impacted by the conduct prohibited in
891 Subsection ~~[(1)]~~ (2) may bring a civil action for equitable relief and damages.

892 (b) In accordance with Section 78B-2-305, a person who brings an action under
893 Subsection ~~[(3)]~~ (4) (a) shall commence the action within three years after the day on which
894 the cause of action arises.

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895 **76-6-407. Theft of lost, mislaid, or mistakenly delivered property.**

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

897 ~~[A person commits theft when:]~~ (2) An actor commits theft of lost, mislaid, or mistakenly
898 delivered property if the actor:

899 ~~[(1)-He]~~ (a) obtains another person's property ~~[of another which he]~~ and knows the
900 property to have been lost or mislaid, or to have been delivered under a mistake as to the
901 identity of the recipient or as to the nature or amount of the property, without taking
902 reasonable measures to return ~~[it]~~ the property to the owner; and

903 ~~[(2)-He]~~ (b) has the purpose to deprive the owner of the property when ~~[he]~~ the actor
904 obtains the property or at any time ~~[prior to]~~ before taking the measures ~~[-designated in~~
905 ~~paragraph (1)]~~ described in Subsection (2)(a) .

906 (3) A violation of Subsection (2) is subject to the penalties described in Section 76-6-412.

907 908 **76-6-408. ~~[Receiving-]~~ Theft by receiving stolen property -- Duties of pawnbrokers,** 909 **secondhand businesses, coin dealers, and catalytic converter purchasers.**

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

911 ~~[(a)]~~ (i) "Catalytic converter purchaser" means the same as that term is defined in
912 Section 13-32a-102.

913 ~~[(b)]~~ (ii) "Coin dealer" means the same as that term is defined in Section
914 13-32a-102.

915 ~~[(c)]~~ (iii) "Pawnbroker" means the same as that term is defined in Section
916 13-32a-102.

917 ~~[(d)]~~ (iv) "Receives" means acquiring possession, control, title, or lending on the
918 security of the property.

919 ~~[(e)]~~ (v) "Scrap metal processor" means the same as that term is defined in Section
920 76-6-1402.

921 ~~[(f)]~~ (vi) "Secondhand actor" means:

922 ~~[(i)]~~ (A) a pawnbroker;

923 ~~[(ii)]~~ (B) a person who has or operates a business dealing in or collecting used or
924 secondhand merchandise or personal property; or

925 ~~[(iii)]~~ (C) an agent, employee, or representative of a pawnbroker or person who
926 buys, receives, or obtains property. _

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

928 ~~[(2) A person]~~ (2) An actor commits theft by receiving stolen property if the
929 ~~[person]~~ actor receives, retains, or disposes of the property of another knowing that the
930 property is stolen, or believing that the property is probably stolen, or who conceals, sells,
931 withholds, or aids in concealing, selling, or withholding the property from the owner, knowing
932 or believing the property to be stolen, intending to deprive the owner of the property. _

933 (3) A violation of Subsection (2) is subject to the penalties described in Section 76-6-412.

934 ~~[(3)]~~ (4) Except as provided in Subsection ~~[(4)]~~ (5), the knowledge or belief required
935 under Subsection (2) is presumed in the case of an actor who:

936 (a) is found in possession or control of other property stolen on a separate occasion;
937 or

938 (b) has received other stolen property within the year preceding the receiving offense
939 charged.

940 ~~[(4)]~~ (5) (a) The knowledge or belief required under Subsection (2) may only be
941 presumed of a secondhand actor if the secondhand actor does not substantially comply with
942 the material requirements of Section 13-32a-104.

943 (b) The knowledge or belief required under Subsection (2) may only be presumed of a
944 coin dealer or an employee of a coin dealer if the coin dealer or the employee of the coin
945 dealer does not substantially comply with the requirements of Section 13-32a-104.5.

946 (c) The knowledge or belief required under Subsection (2) may only be presumed of a
947 catalytic converter purchaser if the catalytic converter purchaser does not substantially
948 comply with the material requirements of Section 13-32a-104.7.

949 ~~[(5)]~~ (6) Unless acting as a catalytic converter purchaser, Subsection ~~[(4)]~~ (5) (c)
950 does not apply to a scrap metal processor.

951 ~~[(6)]~~ (7) This section does not preclude the admission of evidence in accordance
952 with the Utah Rules of Evidence.

953

954 **76-6-409. Theft of ~~[services]~~ service.**

955 (1) (a) As used in this section, "service" includes:

956 (i) labor, professional service, a public utility or transportation service, restaurant, hotel,
957 motel, tourist cabin, rooming house, and like accommodations, the supplying of equipment, a
958 tool, a vehicle, or a trailer for temporary use, telegraph service, steam, admission to

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959 entertainment, an exhibition, a sporting event, or other event for which a charge is made;
960 (ii) gas, electricity, water, sewer, or cable television service, only if the service is obtained by
961 threat, force, or a form of deception not described in Section 76-6-409.3; and
962 (iii) telephone service, only if the service is obtained by threat, force, or a form of deception
963 not described in Sections 76-6-409.5 through 76-6-409.9.
964 (b) Terms defined in Section 76-1-101.5 apply to this section.
965 ~~[(1) A person]~~ (2) An actor commits theft ~~[if he]~~ of service if:
966 (a) the actor, by deception, threat, force, or another means designed to avoid due payment,
967 obtains ~~[services which he]~~ a service that the actor knows ~~[are]~~ is available only for
968 compensation~~[by deception, threat, force, or any other means designed to avoid the due~~
969 ~~payment for them.] ; or~~
970 ~~[— (2) A person commits theft if]~~ (b) the actor:
971 (i) has control over the disposition of another person's service; and
972 (ii) (A) diverts the other person's service to the benefit of the actor, knowing that the actor is
973 not entitled to the service; or
974 (B) diverts the other person's service to the benefit of a third person, knowing that the third
975 person is not entitled to the service. [, having control over the disposition of services of
976 ~~another, to which he knows he is not entitled, he diverts the services to his own benefit or to~~
977 ~~the benefit of another who he knows is not entitled to them.]~~
978 ~~[— (3) In this section "services" includes, but is not limited to, labor, professional service,~~
979 ~~public utility and transportation services, restaurant, hotel, motel, tourist cabin, rooming~~
980 ~~house, and like accommodations, the supplying of equipment, tools, vehicles, or trailers for~~
981 ~~temporary use, telephone or telegraph service, steam, admission to entertainment,~~
982 ~~exhibitions, sporting events, or other events for which a charge is made.~~
983 ~~— (4) Under this section "services" includes gas, electricity, water, sewer, or cable~~
984 ~~television services, only if the services are obtained by threat, force, or a form of deception~~
985 ~~not described in Section 76-6-409.3.~~
986 ~~— (5) Under this section "services" includes telephone services only if the services are~~
987 ~~obtained by threat, force, or a form of deception not described in Sections 76-6-409.5~~
988 ~~through 76-6-409.9.]~~
989 (3) A violation of Subsection (2) is subject to the penalties described in Section 76-6-412.
990

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991 **76-6-409.1. ~~[Devices]~~ Unlawful device for theft of ~~[services]~~ service -- Seizure and**
992 **destruction -- Civil actions for damages.**

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

994 ~~[(1) A person may not knowingly:]~~ (2) An actor commits unlawful device for theft of
995 service if the actor:

996 (a) ~~[make or possess any]~~ makes or possesses an instrument, apparatus,
997 equipment, or device for the use of, or for the purpose of, committing or attempting to commit
998 theft under Section 76-6-409 or 76-6-409.3; or

999 (b) ~~[sell, offer to sell, advertise, give, transport, or otherwise transfer]~~ sells, offers to
1000 sell, advertises, gives, transports, or otherwise transfers to another person:

1001 (i) ~~[any information,]~~ an instrument, apparatus, equipment, or device~~[:]~~ ; or

1002 (ii) any information, plan, or instruction for obtaining, making, or assembling ~~[the same]~~ an
1003 instrument, apparatus, equipment, or device, with intent that ~~[it]~~ the instrument, apparatus,
1004 equipment, or device be used, or caused to be used, to commit or attempt to commit theft
1005 under Section 76-6-409 or 76-6-409.3.

1006 ~~[(2)(a) Any information, instrument, apparatus, equipment, or device, or information,~~
1007 ~~plan, or instruction referred to in Subsection (1) may be seized pursuant to a court order,~~
1008 ~~lawful search and seizure, lawful arrest, or other lawful process.~~

1009 ~~— (b) Upon the conviction of any person for a violation of any provision of this section,~~
1010 ~~any information, instrument, apparatus, equipment, device, plan, or instruction shall be~~
1011 ~~destroyed as contraband by the sheriff of the county in which the person was convicted.]~~

1012 ~~[(3) A person who violates any provision]~~ (3) (a) A violation of Subsection ~~[(1) or]~~
1013 (2) is ~~[guilty of]~~ a class A misdemeanor.

1014 (b) Any instrument, apparatus, equipment, device, information, plan, or instruction referred
1015 to in Subsection (2) may be seized pursuant to a court order, lawful search and seizure,
1016 lawful arrest, or other lawful process.

1017 (c) Upon the conviction of an actor for a violation of this section, the sheriff of the county in
1018 which the actor was convicted shall destroy as contraband any instrument, apparatus,
1019 equipment, device, information, plan, or instruction.

1020 ~~[(4) Criminal prosecutions]~~ (4) A criminal prosecution under this section ~~[do]~~ does
1021 not affect any person's right of civil action for redress for damages suffered as a result of
1022 ~~[any]~~ a violation of this section.

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1023 **76-6-409.3. Theft of utility or cable television ~~[services]~~ service -- Restitution -- Civil**
1024 **action for damages.**

1025 (1) (a) As used in this section:

1026 ~~[(a)-]~~ (i) "Cable television service" means ~~[any-]~~ an audio, video, or data service
1027 provided for payment by a cable television company over ~~[its-]~~ the cable television
1028 company's cable system facilities~~[for payment]~~, but does not include the use of a satellite
1029 dish or antenna.

1030 (ii) "Occupant" includes a person, including the owner, who occupies the whole or part
1031 of a building, whether alone or with others.

1032 ~~[(b)-]~~ (iii) "Owner" includes ~~[any part-owner]~~ a partial owner, joint owner, tenant in
1033 common, joint tenant, or tenant by the entirety of the whole or a part of ~~[any-]~~ a building and
1034 the property on which ~~[it]~~ the building is located.

1035 ~~[(c)-]~~ (iv) "Person" means ~~[any]~~ an individual, firm, partnership, corporation,
1036 company, association, or other legal entity. _

1037 (v) "Prohibited act" includes:

1038 (A) connecting a tube, pipe, wire, cable, or other instrument with a meter, device, or other
1039 instrument used for conducting gas, electricity, water, sewer, or cable television in a manner
1040 as permits the use of the gas, electricity, water, sewer, or cable television without the gas,
1041 electricity, water, sewer, or cable television passing through a meter or other instrument
1042 recording the usage for billing;

1043 (B) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other
1044 instrument used for measuring quantities of gas, electricity, water, or sewer service, or
1045 making or maintaining any modification or alteration to a device installed with the
1046 authorization of a cable television company for the purpose of intercepting or receiving any
1047 program or other service carried by the company that the actor is not authorized by the
1048 company to receive;

1049 (C) reconnecting a gas, electricity, water, sewer, or cable television connection or otherwise
1050 restoring service when one or more of those utilities or cable service has been lawfully
1051 disconnected or turned off by the provider of the utility or cable service;

1052 (D) intentionally breaking, defacing, or causing to be broken or defaced a seal, locking
1053 device, or other part of a metering device for recording usage of gas, electricity, water, or
1054 sewer service, or a security system for the recording device, or a cable television control

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- 1055 device;
- 1056 (E) removing a metering device designed to measure quantities of gas, electricity, water, or
- 1057 sewer service;
- 1058 (F) transferring from one location to another location a metering device for measuring
- 1059 quantities of public utility services of gas, electricity, water, or sewer service;
- 1060 (G) changing the indicated consumption, jamming the measuring device, bypassing the
- 1061 meter or measuring device with a jumper so that it does not indicate use or registers use
- 1062 incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from
- 1063 the utility without the gas, electricity, water, or sewer service passing through a metering
- 1064 device for measuring quantities of consumption for billing purposes;
- 1065 (H) using a metering device belonging to the utility that has not been assigned to the location
- 1066 and installed by the utility;
- 1067 (I) fabricating or using a device to pick or otherwise tamper with the locks used to deter utility
- 1068 service diversion, meter tampering, meter thefts, or unauthorized cable television service;
- 1069 (J) assisting or instructing a person in obtaining or attempting to obtain a cable television
- 1070 service without payment of all lawful compensation to the company providing the service;
- 1071 (K) making or maintaining a connection or connections, whether physical, electrical,
- 1072 mechanical, acoustical, or by other means, with a cable, wire, component, or other device
- 1073 used for the distribution of cable television service without authority from the cable television
- 1074 company; and
- 1075 (L) possessing without authority a device or printed circuit board designed in whole or in part
- 1076 to receive cable television programming or service offered for sale over a cable television
- 1077 system, unless the device or printed circuit board includes the use of a satellite dish or
- 1078 antenna, with the intent that the device or printed circuit be used for the reception of the
- 1079 cable television company's services without payment.
- 1080 ~~[(d)]~~ (vi) "Tenant ~~[or occupant]~~" includes ~~[any]~~ a person, including the owner, who
- 1081 occupies the whole or part of any building, whether alone or with others.
- 1082 ~~[(e)]~~ (vii) "Utility" means any public utility, municipally~~[-]~~owned utility, or cooperative
- 1083 utility ~~[which]~~ that provides electricity, gas, water, or sewer, or any combination of ~~[them]~~
- 1084 electricity, gas, water, or sewer, for sale to consumers. _
- 1085 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1086 ~~[— (2) A person is guilty of]~~ (2) An actor commits theft of a utility or cable television

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1087 service if the ~~[person commits any prohibited acts which make]~~ actor commits a prohibited
1088 act that makes gas, electricity, water, sewer, or cable television available to a tenant or
1089 occupant, including ~~[himself]~~ to the actor, with intent to avoid due payment to the utility or
1090 cable television company. ~~[Any person aiding and abetting in these prohibited acts is a party~~
1091 ~~to the offense under Section 76-2-202.] [Prohibited acts include:~~
1092 ~~—— (a) connecting any tube, pipe, wire, cable, or other instrument with any meter, device,~~
1093 ~~or other instrument used for conducting gas, electricity, water, sewer, or cable television in a~~
1094 ~~manner as permits the use of the gas, electricity, water, sewer, or cable television without its~~
1095 ~~passing through a meter or other instrument recording the usage for billing;]~~
1096 ~~[—— (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or~~
1097 ~~other instrument used for measuring quantities of gas, electricity, water, or sewer service, or~~
1098 ~~making or maintaining any modification or alteration to any device installed with the~~
1099 ~~authorization of a cable television company for the purpose of intercepting or receiving any~~
1100 ~~program or other service carried by the company which the person is not authorized by the~~
1101 ~~company to receive;]~~
1102 ~~[(c) reconnecting gas, electricity, water, sewer, or cable television connections or~~
1103 ~~otherwise restoring service when one or more of those utilities or cable service have been~~
1104 ~~lawfully disconnected or turned off by the provider of the utility or cable service;]~~
1105 ~~[(d) intentionally breaking, defacing, or causing to be broken or defaced any seal,~~
1106 ~~locking device, or other part of a metering device for recording usage of gas, electricity,~~
1107 ~~water, or sewer service, or a security system for the recording device, or a cable television~~
1108 ~~control device;]~~
1109 ~~[(e) removing a metering device designed to measure quantities of gas, electricity,~~
1110 ~~water, or sewer service;]~~
1111 ~~[(f) transferring from one location to another a metering device for measuring~~
1112 ~~quantities of public utility services of gas, electricity, water, or sewer service;]~~
1113 ~~[(g) changing the indicated consumption, jamming the measuring device, bypassing~~
1114 ~~the meter or measuring device with a jumper so that it does not indicate use or registers use~~
1115 ~~incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from~~
1116 ~~the utility without their passing through a metering device for measuring quantities of~~
1117 ~~consumption for billing purposes;]~~
1118 ~~[—— (h) using a metering device belonging to the utility that has not been assigned to the~~

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1119 ~~location and installed by the utility;]~~

1120 ~~[(i) fabricating or using a device to pick or otherwise tamper with the locks used to~~
1121 ~~deter utility service diversion, meter tampering, meter thefts, and unauthorized cable~~
1122 ~~television service;]~~

1123 ~~[—(j) assisting or instructing any person in obtaining or attempting to obtain any cable~~
1124 ~~television service without payment of all lawful compensation to the company providing the~~
1125 ~~service;]~~

1126 ~~[—(k) making or maintaining a connection or connections, whether physical, electrical,~~
1127 ~~mechanical, acoustical, or by other means, with any cables, wires, components, or other~~
1128 ~~devices used for the distribution of cable television services without authority from the cable~~
1129 ~~television company; or]~~

1130 ~~[—(l) possessing without authority any device or printed circuit board designed in whole~~
1131 ~~or in part to receive any cable television programming or services offered for sale over a~~
1132 ~~cable television system with the intent that the device or printed circuit be used for the~~
1133 ~~reception of the cable television company's services without payment. For purposes of this~~
1134 ~~subsection, device or printed circuit board does not include the use of a satellite dish or~~
1135 ~~antenna.]~~

1136 ~~[—(3)] _~~

1137 (3) (a) A violation of Subsection (2), if the violation is a theft of a utility service, is:

1138 (i) a class B misdemeanor if the value of the gas, electricity, water, or sewer service is less
1139 than \$500;

1140 (ii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service is or
1141 exceeds \$500 but is not more than \$1,500;

1142 (iii) a third degree felony if the value of the gas, electricity, water, or sewer service is or
1143 exceeds \$1,500 but is not more than \$5,000; or

1144 (iv) a second degree felony if the value of the gas, electricity, water, or sewer service is or
1145 exceeds \$5,000, or if the actor previously has been convicted of a violation of this section.

1146 (b) A violation of Subsection (2), if the violation is a theft of a cable television service, is
1147 subject to the penalties described in Section 76-6-412.

1148 (c) (i) An actor who violates this section shall make restitution to the utility or cable television
1149 company for the value of the gas, electricity, water, sewer, or cable television service
1150 consumed in violation of this section plus all reasonable expenses and costs incurred on

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1151 account of the violation of this section.

1152 (ii) Reasonable expenses and costs include expenses and costs for investigation,
1153 disconnection, reconnection, service calls, employee time, and equipment use.

1154 (4) (a) The presence on property in the possession of ~~[a person of any device]~~ an actor of a
1155 device or alteration ~~[which]~~ that permits the diversion or use of utility or cable service to
1156 avoid the registration of the use by or on a meter installed by the utility or to otherwise avoid
1157 the recording of use of the service for payment or otherwise avoid payment gives rise to an
1158 inference that the ~~[person]~~ actor in possession of the property installed the device or caused
1159 the alteration if:

1160 ~~[(a)]~~ (i) the presence of the device or alteration can be attributed only to a deliberate
1161 act in furtherance of an intent to avoid payment for utility or cable television service; and

1162 ~~[(b)]~~ (ii) the ~~[person]~~ actor charged has received the direct benefit of the reduction
1163 of the cost of the utility or cable television service.

1164 (b) An actor who aids or abets in a prohibited act is a party to the offense under Section
1165 76-2-202.

1166 ~~[— (4) A person who violates this section is guilty of the offense of theft of utility or cable~~
1167 ~~television service.]~~

1168 ~~[— (a) In the case of theft of utility services, if the value of the gas, electricity, water, or~~
1169 ~~sewer service:~~

1170 ~~— (i) is less than \$500, the offense is a class B misdemeanor;~~

1171 ~~— (ii) is or exceeds \$500 but is not more than \$1,500, the offense is a class A~~
1172 ~~misdemeanor;]~~

1173 ~~[— (iii) is or exceeds \$1,500 but is not more than \$5,000, the offense is a third degree~~
1174 ~~felony; and~~

1175 ~~— (iv) is or exceeds \$5,000 or if the offender has previously been convicted of a~~
1176 ~~violation of this section, the offense is a second degree felony.]~~

1177 ~~[— (b) In the case of theft of cable television services, the penalties are prescribed in~~
1178 ~~Section 76-6-412.]~~

1179 ~~[— (5) A person who violates this section shall make restitution to the utility or cable~~
1180 ~~television company for the value of the gas, electricity, water, sewer, or cable television~~
1181 ~~service consumed in violation of this section plus all reasonable expenses and costs incurred~~
1182 ~~on account of the violation of this section. Reasonable expenses and costs include~~

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1183 ~~expenses and costs for investigation, disconnection, reconnection, service calls, employee~~
1184 ~~time, and equipment use.]~~

1185 ~~[—(6)—~~ (5) (a) Criminal prosecution under this section does not affect the right of a
1186 utility or cable television company to bring a civil action for redress for damages suffered as a
1187 result of the commission of any of the acts prohibited by this section.

1188 ~~[—(7)—~~ (b) This section does not abridge or alter any other right, action, or remedy
1189 otherwise available to a utility or cable television company.

1190

1191 **76-6-409.6. Use of telecommunication device to avoid lawful charge for service**~~—~~
1192 **Penalty].**

1193 (1) Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.

1194 ~~[—(1) Any person who uses]~~ (2) An actor commits use of a telecommunication device
1195 to avoid lawful charge for service if the actor uses a telecommunication device :

1196 (a) with the intent to avoid the payment of ~~[any]~~ a lawful charge for telecommunication
1197 service ; or _

1198 (b) with the knowledge that ~~[it]~~ the use of the telecommunication device was to avoid the
1199 payment of ~~[any]~~ a lawful charge for telecommunication service ~~[is guilty of:]~~ _

1200 (3) (a) A violation of Subsection (2) is:

1201 ~~[(a)]~~ (i) a class B misdemeanor, if the value of the telecommunication service is
1202 less than \$300 or cannot be ascertained;

1203 ~~[(b)]~~ (ii) a class A misdemeanor, if the value of the telecommunication service
1204 charge is or exceeds \$300 but is not more than \$1,000;

1205 ~~[(c)]~~ (iii) a third degree felony, if the value of the telecommunication service is or
1206 exceeds \$1,000 but is not more than \$5,000; or

1207 ~~[(d)]~~ (iv) a second degree felony, if:

1208 ~~[(i)]~~ (A) the value of the telecommunication service is or exceeds \$5,000; ~~[or]~~

1209 ~~[(ii)]~~ (B) the cloned cellular telephone was used to facilitate the commission of a
1210 felony~~[-]~~ ; or

1211 (C) the actor previously has been convicted of a violation of this section.

1212 ~~[—(2) Any person who has been convicted previously of an offense under this section is~~
1213 ~~guilty of a second degree felony upon a second conviction and any subsequent conviction.]~~

1214 (b) An actor who violates this section is subject to the restitution and civil action provisions

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1215 described in Section 76-6-409.10.

1216

1217 **76-6-409.7. Possession of ~~[any]~~ unlawful telecommunication device ~~[--Penalty]~~.**

1218 (1) Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.

1219 ~~[— (1) Any person who]~~ (2) An actor commits possession of unlawful telecommunication
1220 device if the actor knowingly possesses an unlawful telecommunication device ~~[is guilty of a~~
1221 ~~class B misdemeanor]~~.

1222 ~~[— (2) Any person]~~ (3) (a) Except as provided in Subsection (3)(b) or (3)(c), a violation of
1223 Subsection (2) is a class B misdemeanor.

1224 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third degree
1225 felony if the actor ~~[who]~~ knowingly possesses five or more unlawful telecommunication
1226 devices in the same criminal episode ~~[is guilty of a third degree felony]~~.

1227 ~~[— (3) Any person is guilty of a]~~ (c) A violation of Subsection (2) is a second degree
1228 felony ~~[who:]~~ if the actor:

1229 ~~[(a)]~~ (i) knowingly and unlawfully possesses an instrument capable of intercepting
1230 electronic serial number and mobile identification number combinations under circumstances
1231 evidencing an intent to clone; or

1232 ~~[(b)]~~ (ii) knowingly and unlawfully possesses cloning paraphernalia under
1233 circumstances evidencing an intent to clone.

1234 (d) An actor who violates this section is subject to the restitution and civil action provisions
1235 described in Section 76-6-409.10.

1236

1237 **76-6-409.8. Sale of an unlawful telecommunication device ~~[--Penalty]~~.**

1238 (1) Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.

1239 ~~[— (1) Any person is guilty of a third degree felony who]~~ (2) An actor commits sale of
1240 unlawful telecommunication device if the actor intentionally sells an unlawful

1241 telecommunication device or material, including hardware, data, computer software, or other
1242 information or equipment, knowing that the purchaser or a third person intends to use such
1243 material in the manufacture of an unlawful telecommunication device.

1244 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree
1245 felony.

1246 ~~[(2) If]~~ (b) A violation of Subsection (2) is a second degree felony if the offense ~~[under this~~

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1247 ~~section~~] involves the intentional sale of five or more unlawful telecommunication devices
1248 within a six-month period~~[, the person committing the offense is guilty of a second degree~~
1249 ~~felony]~~.

1250 (c) An actor who violates this section is subject to the restitution and civil action provisions
1251 described in Section 76-6-409.10.

1252

1253 **76-6-409.9. Manufacture of an unlawful telecommunication device ~~[--Penalty]~~.**

1254 (1) Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.

1255 ~~[—(1) Any person who]~~ (2) An actor commits manufacture of unlawful
1256 telecommunication device if the actor intentionally manufactures an unlawful
1257 telecommunication device ~~[is guilty of a third degree felony]~~.

1258 ~~[—(2) If the offense under this section]~~ (3) (a) Except as provided in Subsection (3)(b),
1259 a violation of Subsection (2) is a third degree felony.

1260 (b) A violation of Subsection (2) is a second degree felony if the offense involves the
1261 intentional manufacture of five or more unlawful telecommunication devices within a
1262 six-month period~~[, the person committing the offense is guilty of a second degree felony]~~.

1263 (c) An actor who violates this section is subject to the restitution and civil action provisions
1264 described in Section 76-6-409.10.

1265

1266 **76-6-409.10. Payment of restitution -- Civil action -- Other remedies retained.**

1267 (1) Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.

1268 ~~[—(1) A person]~~ (2) (a) (i) An actor who violates ~~[Sections 76-6-409.5 through~~
1269 Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or 76-6-409.9 shall make restitution to the
1270 telecommunication service provider for the value of the telecommunication service consumed
1271 in ~~[violation of this section]~~ the violation plus all reasonable expenses and costs incurred on
1272 account of the violation ~~[of this section]~~. _

1273 (ii) Reasonable expenses and costs include expenses and costs for investigation, service
1274 calls, employee time, and equipment use.

1275 ~~[—(2) Criminal]~~ (b) A criminal prosecution under ~~[this section]~~ Section 76-6-409.6,
1276 76-6-409.7, 76-6-409.8, or 76-6-409.9 does not affect the right of a telecommunication
1277 service provider to bring a civil action for redress for damages suffered as a result of the
1278 commission of any of the acts prohibited by ~~[this section]~~ Section 76-6-409.6, 76-6-409.7,

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1279 76-6-409.8, or 76-6-409.9.

1280 (3) This section does not abridge or alter any other right, action, or remedy otherwise
1281 available to a telecommunication service provider.

1282

1283 **76-6-410. Theft by ~~[person having custody]~~ custodian of property pursuant to repair**
1284 **or rental agreement.**

1285 ~~[— A person is guilty of theft if:]~~ (1) Terms defined in Section 76-1-101.5 apply to this
1286 section.

1287 ~~[— (1) Having]~~ (2) An actor commits theft by custodian of property pursuant to repair or
1288 rental agreement if:

1289 (a) (i) the actor has custody of property pursuant to an agreement between ~~[himself]~~ the
1290 actor or another person and the property's owner ;

1291 [thereof whereby] (ii) the actor or another person is to perform for compensation a
1292 specific service for the property's owner involving the maintenance, repair, or use of ~~[such]~~
1293 the owner's property~~[, he]~~ ; and

1294 (iii) the actor intentionally uses or operates ~~[it]~~ the owner's property, without the consent of
1295 the owner, for ~~[his]~~ the actor's own purposes in a manner constituting a gross deviation from
1296 the agreed purpose; or

1297 ~~[(2) Having]~~ (b) (i) the actor has custody of any property pursuant to a rental or
1298 lease agreement ~~[where it]~~ in which the property is to be returned in a specified manner or
1299 at a specified time~~[:]~~ ; and

1300 (ii) the actor intentionally fails to comply with the terms of the agreement concerning return
1301 so as to render such failure a gross deviation from the agreement.

1302 (3) A violation of Subsection (2) is subject to the penalties described in Section 76-6-412.

1303

1304 **76-6-410.5. Theft of a rental vehicle.**

1305 (1) (a) As used in this section:

1306 ~~[(a) -]~~ (i) "Motor vehicle" means a self-propelled vehicle that is intended primarily for
1307 use and operation on the highways.

1308 ~~[(b)]~~ (ii) "Rental agreement" means ~~[any]~~ a written agreement stating the terms and
1309 conditions governing the use of a motor vehicle provided by a rental company.

1310 ~~[(c)]~~ (iii) "Rental company" means ~~[any]~~ a person or organization in the business of

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1311 providing motor vehicles to the public.

1312 ~~[(d)]~~ (iv) "Renter" means ~~[any]~~ a person or organization obtaining the use of a
1313 motor vehicle from a rental company under the terms of a rental agreement.

1314 (b) Terms defined in Section 76-1-101.5 apply to this section.

1315 ~~[— (2) A renter is guilty of]~~ (2) An actor commits theft of a rental vehicle if ~~[,]~~ the actor:
1316 (a) is a renter; and

1317 (b) without notice to and permission of the rental company, ~~[the renter]~~ knowingly fails
1318 without good cause to return the vehicle within 72 hours after the time established for the
1319 return in the rental agreement. _

1320 (3) A violation of Subsection (2) is a second degree felony.

1321 ~~[— (3) If the]~~ (4) If a motor vehicle is not rented on a periodic tenancy basis, the rental
1322 company shall include the following information, legibly written, as part of the terms of the
1323 rental agreement:

1324 (a) the date and time the motor vehicle is required to be returned; and

1325 (b) the maximum penalties under state law if the motor vehicle is not returned within
1326 72 hours from the date and time stated in compliance with Subsection ~~[(3)]~~ (4) (a).

1327

1328 **76-6-412. Theft -- Classification of offenses -- Action for treble damages.**

1329 (1) ~~[Theft]~~ Unless otherwise provided, theft of property and services as provided in
1330 this chapter is punishable:

1331 (a) as a second degree felony if the:

1332 (i) value of the property or services is or exceeds \$5,000;

1333 (ii) property stolen is a firearm or an operable motor vehicle; or

1334 (iii) property is stolen from the person of another;

1335 (b) as a third degree felony if:

1336 (i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;

1337 (ii) the property is a catalytic converter as defined under Section 76-6-1402;

1338 (iii) the value of the property or services is or exceeds \$500 and the actor has been

1339 twice before convicted of any of the following offenses, if each prior offense was committed

1340 within 10 years before the date of the current conviction or the date of the offense upon

1341 which the current conviction is based and at least one of those convictions is for a class A

1342 misdemeanor:

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1343 (A) any theft, any robbery, or any burglary with intent to commit theft;
1344 (B) any offense under Title 76, Chapter 6, Part 5, Fraud; or
1345 (C) any attempt to commit any offense under Subsection (1)(b)(iii)(A) or (B);
1346 (iv) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;
1347 (B) the theft occurs on a property where the offender has committed any theft within
1348 the past five years; and
1349 (C) the offender has received written notice from the merchant prohibiting the
1350 offender from entering the property pursuant to Subsection 78B-3-108(4); or
1351 (v) the actor has been previously convicted of a felony violation of any of the offenses
1352 listed in Subsections (1)(b)(iii)(A) through (1)(b)(iii)(C), if the prior offense was committed
1353 within 10 years before the date of the current conviction or the date of the offense upon
1354 which the current conviction is based;
1355 (c) as a class A misdemeanor if:
1356 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
1357 (ii) (A) the value of property or services is less than \$500;
1358 (B) the theft occurs on a property where the offender has committed any theft within
1359 the past five years; and
1360 (C) the offender has received written notice from the merchant prohibiting the
1361 offender from entering the property pursuant to Subsection 78B-3-108(4); or
1362 (iii) the actor has been twice before convicted of any of the offenses listed in
1363 Subsections (1)(b)(iii)(A) through (1)(b)(iii)(C), if each prior offense was committed within 10
1364 years before the date of the current conviction or the date of the offense upon which the
1365 current conviction is based; or
1366 (d) as a class B misdemeanor if the value of the property stolen is less than \$500 and
1367 the theft is not an offense under Subsection (1)(c).
1368 (2) Any individual who violates Subsection 76-6-408(2) or 76-6-413~~[(1)]~~ (2), or
1369 commits theft of a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat,
1370 mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes, or a
1371 livestock guardian dog, is civilly liable for three times the amount of actual damages, if any
1372 sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

1373
1374 **76-6-413. Release of a fur-bearing ~~[animals -- Penalty]~~ animal -- Finding.**

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1375 (1) Terms defined in Section 76-1-101.5 apply to this section.
1376 ~~[—(1) In any case not amounting to a felony of the second degree, any person who]~~ (2)
1377 An actor commits release of a fur-bearing animal if the actor intentionally and without
1378 permission of the owner releases ~~[any]~~ a fur-bearing animal raised for commercial
1379 purposes~~[is guilty of a felony of the third degree.]~~ .
1380 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), a violation of Subsection (2) is a third
1381 degree felony.
1382 (ii) A violation of Subsection (2) is a second degree felony if the value of the property is or
1383 exceeds \$5,000.
1384 (b) An actor may be liable for civil damages in accordance with Subsection 76-6-412(2).
1385 ~~[—(2)—]~~ (4) The Legislature finds that the release of a fur-bearing ~~[animals]~~ animal
1386 raised for commercial purposes subjects the ~~[animals]~~ animal to unnecessary suffering
1387 through deprivation of food and shelter and compromises ~~[their]~~ the animal's genetic
1388 integrity, thereby permanently depriving the owner of substantial value.
1389
1390
1391