

Effective 5/3/2023

76-6-402 Presumptions and defenses.

The following presumption shall be applicable to this part:

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

Amended by Chapter 121, 2023 General Session