

**Effective 5/3/2023**

**Superseded 5/7/2025**

**76-6-409 Theft of service.**

- (1)
  - (a) As used in this section, "service" includes:
    - (i) labor, professional service, a public utility or transportation service, restaurant, hotel, motel, tourist cabin, rooming house, and like accommodations, the supplying of equipment, a tool, a vehicle, or a trailer for temporary use, telegraph service, steam, admission to entertainment, an exhibition, a sporting event, or other event for which a charge is made;
    - (ii) gas, electricity, water, sewer, or cable television service, only if the service is obtained by threat, force, or a form of deception not described in Section 76-6-409.3; and
    - (iii) telephone service, only if the service is obtained by threat, force, or a form of deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or 76-6-409.9.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft of service if:
  - (a) the actor, by deception, threat, force, or another means designed to avoid due payment, obtains a service that the actor knows is available only for compensation; or
  - (b) the actor:
    - (i) has control over the disposition of another person's service; and
    - (ii)
      - (A) diverts the other person's service to the benefit of the actor, knowing that the actor is not entitled to the service; or
      - (B) diverts the other person's service to the benefit of a third person, knowing that the third person is not entitled to the service.
- (3) A violation of Subsection (2) is:
  - (a) a second degree felony if the value of the service is or exceeds \$5,000;
  - (b) a third degree felony if:
    - (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;
    - (ii) the value of the service is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
      - (A) any theft, any robbery, or any burglary with intent to commit theft;
      - (B) any offense under Part 5, Fraud; or
      - (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);
    - (iii)
      - (A) the value of the service is or exceeds \$500 but is less than \$1,500;
      - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
      - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
    - (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
  - (c) a class A misdemeanor if:
    - (i) the value of the service stolen is or exceeds \$500 but is less than \$1,500;
    - (ii)

- (A) the value of the service is less than \$500;
  - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
  - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
- (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- (d) a class B misdemeanor if the value of the service is less than \$500 and the theft is not an offense under Subsection (3)(c).