

Effective 5/7/2025

76-6-410 Theft by custodian of property pursuant to repair or rental agreement.

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft by custodian of property pursuant to repair or rental agreement if:
 - (a)
 - (i) the actor has custody of property pursuant to an agreement between the actor or another person and the property's owner;
 - (ii) the actor or another person is to perform for compensation a specific service for the property's owner involving the maintenance, repair, or use of the owner's property; and
 - (iii) the actor intentionally uses or operates the owner's property, without the consent of the owner, for the actor's own purposes in a manner constituting a gross deviation from the agreed purpose; or
 - (b)
 - (i) the actor has custody of any property pursuant to a rental or lease agreement in which the property is to be returned in a specified manner or at a specified time; and
 - (ii) the actor intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement.
- (3) A violation of Subsection (2) is:
 - (a) a second degree felony if the:
 - (i) value of the property is or exceeds \$5,000; or
 - (ii) property stolen is a firearm or an operable motor vehicle;
 - (b) a third degree felony if:
 - (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
 - (ii) the property is:
 - (A) a catalytic converter as defined under Section 76-6-1402; or
 - (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
 - (iii) the value of the property 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;
 - (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
 - (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C); or
 - (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (D), 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 property stolen is or exceeds \$500 but is less than \$1,500; or
 - (ii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (D), 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;

(d) a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

Amended by Chapter 178, 2025 General Session