

**WRONGFUL APPROPRIATION**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Bryan D. Holladay**

AN ACT RELATING TO THE CRIMINAL CODE; CREATING THE OFFENSE OF WRONGFUL APPROPRIATION; AND PROVIDING PENALTIES.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

**76-6-404.5**, Utah Code Annotated 1953

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

Section 1. Section **76-6-404.5** is enacted to read:

**76-6-404.5. Wrongful appropriation -- Penalties.**

(1) A person commits wrongful appropriation if he obtains or exercises unauthorized control over the property of another, without the consent of the owner or legal custodian and with intent to temporarily appropriate, possess, or use the property or to temporarily deprive the owner or legal custodian of possession of the property.

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

(3) Wrongful appropriation is punishable one degree lower than theft, as provided in Section 76-6-412, so that a violation which would have been:

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

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

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

(d) a class B misdemeanor under Section 76-6-412 if it had been theft is a class C misdemeanor if it is wrongful appropriation; and

(e) an act of unauthorized control of motor vehicles, trailers, or semitrailers which does not constitute theft is punishable under Section 41-1a-1311.