

Representative Gary F. Cox proposes to substitute the following bill:

UNAUTHORIZED CONTROL OF A MOTOR

VEHICLE AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Gary F. Cox

This act amends Criminal Code and the Motor Vehicle Act provisions regarding the theft of motor vehicles, by providing that wrongful appropriation of or unauthorized control of a motor vehicle is a lesser included offense of theft. The act also removes the references to trailers and semitrailers in the section regarding unauthorized control of a motor vehicle.

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

AMENDS:

41-1a-1314, as last amended by Chapter 100, Laws of Utah 1997

76-6-404.5, as last amended by Chapter 21, Laws of Utah 1999

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

Section 1. Section **41-1a-1314** is amended to read:

41-1a-1314. Unauthorized control for extended time.

(1) Except as provided in Subsection (3), it is a class A misdemeanor for a person to exercise unauthorized control over a motor vehicle~~[, trailer, or semitrailer,]~~ that is not his own, without the consent of the owner or lawful custodian, and with the intent to temporarily deprive the owner or lawful custodian of possession of the motor vehicle~~[, trailer, or semitrailer]~~.

(2) The consent of the owner or legal custodian of a motor vehicle~~[, trailer, or semitrailer]~~ to its control by the actor is not in any case presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the motor vehicle~~[, trailer, or semitrailer]~~ by the same or a different person.

(3) Violation of this section is a third degree felony if:

26 (a) the person does not return the motor vehicle~~[, trailer, or semitrailer]~~ to the owner or
27 lawful custodian within 24 hours after the exercise of unlawful control; or

28 (b) regardless of the mental state or conduct of the person committing the offense:

29 (i) the motor vehicle~~[, trailer, or semitrailer]~~ is damaged in an amount of \$500 or more;

30 (ii) the motor vehicle~~[, trailer, or semitrailer]~~ is used to commit a felony; or

31 (iii) the motor vehicle~~[, trailer, or semitrailer]~~ is damaged in any amount to facilitate entry
32 into it or its operation.

33 (4) It is not a defense to Subsection (3)(a) that someone other than the person, or an agent
34 of the person, returned the motor vehicle~~[, trailer, or semitrailer]~~ within 24 hours.

35 (5) A violation of this section is a lesser included offense of theft under Section 76-6-404,
36 when the theft is of an operable motor vehicle under Subsection 76-6-412(1)(a)(i).

37 Section 2. Section **76-6-404.5** is amended to read:

38 **76-6-404.5. Wrongful appropriation -- Penalties.**

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

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

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

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

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

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

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

56 (4) Wrongful appropriation is a lesser included offense of the offense of theft under

57 Section 76-6-404.