

# HB0114S01 compared with HB0114

~~{deleted text}~~ shows text that was in HB0114 but was deleted in HB0114S01.

inserted text shows text that was not in HB0114 but was inserted into HB0114S01.

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Representative Carl R. Albrecht proposes the following substitute bill:

## THEFT DEFENSE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carl R. Albrecht**

Senate Sponsor: ~~{ }~~ Evan J. Vickers

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### LONG TITLE

#### General Description:

This bill amends the defenses available to those charged with theft.

#### Highlighted Provisions:

This bill:

- ▶ provides that it is not a defense to theft of livestock ~~{or a domestic animal}~~ that the livestock ~~{or domestic animal}~~ is sick, injured, or a liability to the owner; and
- ▶ makes technical changes. ~~{ }~~

#### Money Appropriated in this Bill:

None

#### Other Special Clauses:

None

#### Utah Code Sections Affected:

## HB0114S01 compared with HB0114

AMENDS:

76-6-402, as last amended by Laws of Utah 2021, Chapter 57

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

Section 1. Section 76-6-402 is amended to read:

**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 ~~[no]~~ not a defense under this part that the actor:

(a) ~~[that the actor]~~ has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, ~~[provided an interest in property for purposes of this subsection shall not include]~~ unless the interest is a security interest for the repayment of a debt or obligation[-]; or

(b) takes livestock ~~{ or a domestic animal }~~, as defined in Section 76-6-110, from the owner because the livestock ~~{ or domestic animal }~~ is sick, injured, or a liability to the owner.

(3) It is a defense under this part that the actor:

(a) ~~[Acted]~~ acted under an honest claim of right to the property or service involved;  
[or]

(b) ~~[Acted]~~ acted in the honest belief that ~~[he]~~ the actor had the right to obtain or exercise control over the property or service ~~[as he did]~~ in the manner the actor obtained or exercised control; or

(c) ~~[Obtained]~~ 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 ~~[was]~~ is living at the time of an alleged violation of this part.