

**Senator Derrin R. Owens** proposes the following substitute bill:

**SUSPECT METAL AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Colin W. Jack**

Senate Sponsor: Derrin R. Owens

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**LONG TITLE**

**General Description:**

This bill concerns the theft of certain types of property.

**Highlighted Provisions:**

This bill:

- ▶ provides an increased penalty for certain metal thefts; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:**

**AMENDS:**

**76-6-412**, as last amended by Laws of Utah 2022, Chapter 201

**Utah Code Sections Affected by Coordination Clause:**

**76-6-404**, as enacted by Laws of Utah 1973, Chapter 196

**76-6-404.5**, as last amended by Laws of Utah 2001, Chapter 48

**76-6-405**, as last amended by Laws of Utah 2012, Chapter 156

**76-6-406**, as last amended by Laws of Utah 2022, Chapter 164



26 76-6-407, as enacted by Laws of Utah 1973, Chapter 196

27 76-6-408, as last amended by Laws of Utah 2022, Chapter 201

28 76-6-410, as enacted by Laws of Utah 1973, Chapter 196

29 76-6-602, as enacted by Laws of Utah 1979, Chapter 78



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

32 Section 1. Section 76-6-412 is amended to read:

33 **76-6-412. Theft -- Classification of offenses -- Action for treble damages.**

34 (1) Theft of property and services as provided in this chapter is punishable:

35 (a) as a second degree felony if the:

36 (i) value of the property or services is or exceeds \$5,000;

37 (ii) property stolen is a firearm or an operable motor vehicle; or

38 (iii) property is stolen from the person of another;

39 (b) as a third degree felony if:

40 (i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;

41 (ii) the property is:

42 (A) a catalytic converter as defined under Section 76-6-1402; or

43 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if

44 the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper

45 and is not a lead battery;

46 (iii) the value of the property or services is or exceeds \$500 and the actor has been

47 twice before convicted of any of the following offenses, if each prior offense was committed

48 within 10 years before the date of the current conviction or the date of the offense upon which

49 the current conviction is based and at least one of those convictions is for a class A

50 misdemeanor:

51 (A) any theft, any robbery, or any burglary with intent to commit theft;

52 (B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

53 (C) any attempt to commit any offense under Subsection (1)(b)(iii)(A) or (B);

54 (iv) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;

55 (B) the theft occurs on a property where the offender has committed any theft within

56 the past five years; and

57 (C) the offender has received written notice from the merchant prohibiting the offender  
58 from entering the property pursuant to Subsection 78B-3-108(4); or

59 (v) the actor has been previously convicted of a felony violation of any of the offenses  
60 listed in Subsections (1)(b)(iii)(A) through (1)(b)(iii)(C), if the prior offense was committed  
61 within 10 years before the date of the current conviction or the date of the offense upon which  
62 the current conviction is based;

63 (c) as a class A misdemeanor if:

64 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

65 (ii) (A) the value of property or services is less than \$500;

66 (B) the theft occurs on a property where the offender has committed any theft within  
67 the past five years; and

68 (C) the offender has received written notice from the merchant prohibiting the offender  
69 from entering the property pursuant to Subsection 78B-3-108(4); or

70 (iii) the actor has been twice before convicted of any of the offenses listed in  
71 Subsections (1)(b)(iii)(A) through (1)(b)(iii)(C), if each prior offense was committed within 10  
72 years before the date of the current conviction or the date of the offense upon which the current  
73 conviction is based; or

74 (d) as a class B misdemeanor if the value of the property stolen is less than \$500 and  
75 the theft is not an offense under Subsection (1)(c).

76 (2) Any individual who violates Subsection 76-6-408(2) or 76-6-413(1), or commits  
77 theft of a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack,  
78 jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes, or a livestock  
79 guardian dog, is civilly liable for three times the amount of actual damages, if any sustained by  
80 the plaintiff, and for costs of suit and reasonable attorney fees.

81 Section 2. **Coordinating H.B. 313 with H.B. 46 -- Substantive and technical**  
82 **amendments.**

83 If this H.B. 313 and H.B. 46, Criminal Code Recodification and Cross References, both  
84 pass and become law, it is the intent of the Legislature that the Office of Legislative Research  
85 and General Counsel prepare the Utah Code database for publication by amending:

86 (1) Subsection 76-6-404(3)(b)(ii) in H.B. 46 to read:

87 "(ii) the property is:

88 (A) a catalytic converter as defined under Section 76-6-1402; or

89 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if  
90 the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper  
91 and is not a lead battery;";

92 (2) Subsection 76-6-404.5(3)(b)(ii) in H.B. 46 to read:

93 "(ii) the property is:

94 (A) a catalytic converter as defined under Section 76-6-1402; or

95 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if  
96 the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper  
97 and is not a lead battery;";

98 (3) Subsection 76-6-405(3)(b)(ii) in H.B. 46 to read:

99 "(ii) the property is:

100 (A) a catalytic converter as defined under Section 76-6-1402; or

101 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if  
102 the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper  
103 and is not a lead battery;";

104 (4) Subsection 76-6-406(3)(b)(ii) in H.B. 46 to read:

105 "(ii) the property is:

106 (A) a catalytic converter as defined under Section 76-6-1402; or

107 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if  
108 the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper  
109 and is not a lead battery;";

110 (5) Subsection 76-6-407(3)(b)(ii) in H.B. 46 to read:

111 "(ii) the property is:

112 (A) a catalytic converter as defined under Section 76-6-1402; or

113 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if  
114 the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper  
115 and is not a lead battery;";

116 (6) Subsection 76-6-408(3)(b)(ii) in H.B. 46 to read:

117 "(ii) the property is:

118 (A) a catalytic converter as defined under Section 76-6-1402; or

119 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if  
120 the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper  
121 and is not a lead battery;";

122 (7) Subsection 76-6-410(3)(b)(ii) in H.B. 46 to read:

123 "(ii) the property is:

124 (A) a catalytic converter as defined under Section 76-6-1402; or

125 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if  
126 the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper  
127 and is not a lead battery;"; and

128 (8) Subsection 76-6-602(3)(b)(ii) in H.B. 46 to read:

129 "(ii) the merchandise is:

130 (A) a catalytic converter as defined under Section 76-6-1402; or

131 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if  
132 the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper  
133 and is not a lead battery;".