

## TITLE 7. PUBLIC PEACE, MORALS, AND WELFARE

### Chapter 7.9

#### THEFT AND ROBBERY

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**7.9.1. Definitions.** The following definitions are applicable in this chapter unless the context otherwise requires:

(a) “Appropriate lost or misdelivered property or services” means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property.

(b) “By color or aid of deception” means that the deception operated to bring about the obtaining of the property or services. It is not necessary that deception be the sole means of obtaining the property or services.

(c) “Credit card” means any instrument or device, whether incomplete, revoked, or expired, whether known as a credit card, credit plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining money, goods, services, or anything else of value, including satisfaction of a debt or the

payment of a check drawn by a cardholder, either on credit or in consideration of an undertaking or guarantee by the issuer.

(d) "Deception" occurs when an actor knowingly:

(1) Creates or confirms another's false impression which the actor knows to be false;

(2) Fails to correct another's impression which the actor previously has created or confirmed;

(3) Prevents another from acquiring information material to the disposition of the property involved;

(4) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid or is or is not a matter of official record; or

(5) Promises performance which the actor does not intend to perform or knows will not be performed.

(e) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs, provided that the aforementioned are of a private, proprietary nature.

(f) "Obtain control over" in addition to its common meaning means:

(1) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(2) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another.

(g) "Wrongfully obtains" or "exerts unauthorized control" means:

(1) To take the property or services of another; or

(2) Having any property or services in one's possession, custody, or control as bailee, factor, pledgee, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto.

(h) "Owner" means a person other than the actor who has possession of or any other interest in the property or services involved and without whose consent the actor has no authority to exert control over the property or services.

(i) "Receive" includes but is not limited to acquiring title, possession, control, a security interest, or any other interest in the property.

(j) "Services" includes but is not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water.

(k) "Stolen" means obtained by theft, robbery, or extortion.

(l) Value. (1) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(2) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(A) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied.

(B) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public.

(C) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(3) Whenever any series of transactions which constitute theft would when considered separately constitute theft in the third degree because of value and said series of transactions are a part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

(4) Whenever any person is charged with possessing stolen property and such person has unlawfully in his or her possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved.

(5) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars (\$250). (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.2. Theft — Definition; Defense.** (a) “Theft” means:

(1) To wrongfully obtain or exert unauthorized control over the property or services of another or the value thereof with intent to deprive him or her of such property or services;

(2) By color or aid of deception to obtain control over the property or services of another or the value thereof with intent to deprive him or her of such property or services; or

(3) To appropriate lost or misdelivered property or services of another or the value thereof with intent to deprive him or her of such property or services.

(b) In any prosecution for theft, it shall be sufficient defense that the property or service was appropriated openly and avowedly under a claim of title made in good faith, even though the claim be untenable. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.3. Theft in the First Degree.** (a) A person is guilty of theft in the first degree if he or she commits theft of:

(1) Property or services which exceed(s) one thousand and five hundred dollars (\$1,500) in value; or

(2) Property of any value taken from the person of another.

(b) Theft in the first degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.4. Theft in the Second Degree.** (a) A person is guilty of theft in the second degree if he or she commits theft of:

(1) Property or services which exceed(s) two hundred and fifty dollars (\$250) in value but does not exceed one thousand and five hundred dollars (\$1,500) in value;

(2) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant;

(3) A credit card; or

(4) A motor vehicle of a value less than one thousand and five hundred dollars (\$1,500).

(b) Theft in the second degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.5. Theft in the Third Degree.** (a) A person is guilty of theft in the third degree if he or she commits theft of property or services which does not exceed two hundred and fifty dollars (\$250) in value.

(b) Theft in the third degree is a gross misdemeanor. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.6. Unlawful Issuance of Checks or Drafts.** (a) Any person who shall with intent to defraud make or draw or utter or deliver to another person any check or draft on a bank or other depository for the payment of money, knowing at the time of such drawing or delivery that he or she has not sufficient funds in or credit with said bank or other depository to meet said check or draft in full upon its presentation, shall be guilty of unlawful issuance of a bank check. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft, and the uttering or delivering of such a check or draft to another person without such fund or credit to meet the same shall be prima facie evidence of an intent to defraud.

(b) Unlawful issuance of a bank check in an amount greater than two hundred and fifty dollars (\$250) is a felony.

(c) Unlawful issuance of a bank check in an amount of two hundred and fifty dollars (\$250) or less is a gross misdemeanor. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.7. Taking Motor Vehicle without Permission.** (a) Every person who shall without the permission of the owner or person entitled to the possession thereof intentionally take or drive away any automobile or motor vehicle, whether propelled by steam, electricity, or internal combustion engine, which is the property of another shall be deemed guilty of a felony; and every person voluntarily riding in or upon said automobile or motor vehicle with knowledge of the fact that the same was unlawfully taken shall be equally guilty with the person taking or driving said automobile or motor vehicle and shall be deemed guilty of taking a motor vehicle without permission.

(b) Taking a motor vehicle without permission is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.8. Extortion — Definition.** “Extortion” means knowingly to obtain or attempt to obtain by threat property or services of the owner. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.9. Extortion in the First Degree.** (a) A person is guilty of extortion in the first degree if he or she commits extortion by means of a threat as defined in §7.1.5(y)(1-3).

(b) Extortion in the first degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.10. Extortion in the Second Degree.** (a) A person is guilty of extortion in the second degree if he or she commits extortion by means of a threat as defined in §7.1.5(y)(4-10).

(b) In any prosecution under this section based on a threat to accuse any person of a crime or cause criminal charges to be instituted against any person, it is a defense that the actor reasonably believed the threatened criminal charge to be true and that his or her sole purpose was to compel or induce the person threatened to take reasonable action to make good the wrong which was the subject of such threatened criminal charge.

(c) Extortion in the second degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.11. Possessing Stolen Property — Definition; Credit Cards, Presumption.** (a) “To possess stolen property” means to receive, retain, possess, conceal, or dispose of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

(b) The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of possessing stolen property.

(c) When a person not an issuer or agent thereof has in his or her possession or under his or her control stolen credit cards issued in the names of two or more persons, he or she shall be presumed to know that they are stolen. This presumption may be rebutted by evidence raising a reasonable inference that the possession of such stolen credit cards was without knowledge that they were stolen. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.12. Possessing Stolen Property in the First Degree.** (a) A person is guilty of possessing stolen property in the first degree if he or she possesses stolen property which exceeds one thousand and five hundred dollars (\$1,500) in value.

(b) Possessing stolen property in the first degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.13. Possessing Stolen Property in the Second Degree.** (a) A person is guilty of possessing stolen property in the second degree if:

(1) He or she possesses stolen property which exceeds two hundred and fifty dollars (\$250) in value but does not exceed one thousand and five hundred dollars (\$1,500) in value;

(2) He or she possesses a stolen public record, writing, or instrument kept, filed, or deposited according to law;

(3) He or she possesses a stolen credit card;

(4) He or she possesses a stolen motor vehicle of a value less than one thousand and five hundred dollars (\$1,500); or

(5) He or she possesses a stolen firearm.

(b) Possessing stolen property in the second degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.14. Possessing Stolen Property in the Third Degree.** (a) A person is guilty of possessing stolen property in the third degree if he or she possesses stolen property which does not exceed two hundred and fifty dollars (\$250) in value.

(b) Possessing stolen property in the third degree is a gross misdemeanor. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.15. Obscuring the Identity of a Machine.** (a) A person is guilty of obscuring the identity of a machine if he or she knowingly:

(1) Obscures the manufacturer's serial number or any other distinguishing identification number or mark upon any vehicle, machine, engine, apparatus, appliance, or other device with intent to render it unidentifiable; or

(2) Possesses a vehicle, machine, engine, apparatus, appliance, or other device held for sale knowing that the serial number or other identification number or mark has been obscured.

(b) "Obscure" means to remove, deface, cover, alter, destroy, or otherwise render unidentifiable.

(c) Obscuring the identity of a machine is a gross misdemeanor. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.16. Robbery — Definition.** A person commits robbery when he or she unlawfully takes personal property from the person of another or in his or her presence against his or her will by the use or threatened use of immediate force, violence, or fear of injury to that person or his or her property or the person or property of anyone. Such force or fear must be used to obtain or retain possession of the property or to prevent or overcome resistance to the taking; in either of which cases, the degree of force is immaterial. Such taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom taken, such knowledge was prevented by the use of force or fear. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.17. Robbery in the First Degree.** (a) A person is guilty of robbery in the first degree if in the commission of a robbery or of immediate flight therefrom, he or she:

- (1) Is armed with a deadly weapon;
- (2) Displays what appears to be a firearm or other deadly weapon; or
- (3) Inflicts bodily injury.

(b) Robbery in the first degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.18. Robbery in the Second Degree.** (a) A person is guilty of robbery in the second degree if he or she commits robbery.

(b) Robbery in the second degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.19. Embezzlement.** (a) A person is guilty of embezzlement if he or she has lawful custody of property not his or her own and he or she appropriates that property to his or her own use or for the use of another person not the owner with intent to deprive the owner thereof.

(b) Embezzlement is a gross misdemeanor. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.9.20. Disposing of Property of an Estate.** Any person who without proper authority sells, trades, or otherwise disposes of any property of any estate before the determination of the heirs shall be guilty of an offense and upon conviction thereof shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than five hundred dollars (\$500) or both, with costs for confiscation of property and/or personal property to cover damages. (Prior code Ch. III, Art. I, §26; and §7.8.35 renumbered during the 1995 supplement)



Note: All subsections in this chapter have been renumbered for consistency, as follows. (Res. 2016-090, Jun. 20, 2016)

All Arabic numerals (1, 2, 3, etc.) used as subsection headings have been changed to lower case letters (a, b, c, etc.)

All lower case letters have been changed to Arabic numerals

All lower case Roman numerals (i, ii, iii, etc.) have been changed to upper case letters (A, B, C, etc.)

Example: What was previously 7.9.1(12)(b)(i) is now 7.9.1(l)(2)(A)