

subsection 13-41-6-44.10(3). It is also unlawful and punishable under subsection 13-41-6-44.10(3) for any person, after being placed under arrest for violation of this section, to refuse to submit to any one of the chemical tests provided. (See 41-22-14, *Utah Code Annotated 1953*)

13-63-43-0. REHABILITATION OF DRINKING DRIVERS.

13-63-43-10. ASSESSMENT IN ADDITION TO FINE FOR DRIVING WHILE INTOXICATED.

1. In each case where a defendant is convicted of violating section 13-41-6-44 or a criminal prohibition that he was charged with violating as a result of a plea bargain after having been originally charged with violating section 13-41-6-44, or a law or ordinance similar to 13-41-6-43(3), the court including justice of the peace courts, shall, at the time of sentencing, assess up to \$150.00 for a first conviction and up to \$299.00 for each subsequent conviction, above any fine imposed, and to be collected by the court or any entity appointed by the court, for the purpose of funding programs described in section 63-43-11, *Utah Code Annotated 1953*.
2. In addition to the fees provided for in subsection 1, the court shall impose against such a defendant further assessments, above any fine imposed, and to be collected by the court or any entity appointed by the court, to fully compensate agencies which treat the defendant for their costs. (See 63-43-10, *Utah Code Annotated 1953*)

CHAPTER 13-76-4-000. INCHOATE OFFENSES.

PART 13-76-4-000. ATTEMPT.

13-76-4-101. ATTEMPT - ELEMENTS OF OFFENSE.

1. For the purpose of this part a person is guilty of an attempt to commit any act made an offense by any ordinance of this city if, acting with the kind of culpability otherwise required for the commission of the offense, he engages in conduct constituting a substantial step towards commission of the offense.
2. For purposes of this part, conduct does not constitute a substantial step unless it is strongly corroborative of the actor's intent to commit the offense.
3. No defense of the offense of attempt shall arise:
 - a. Because of the offense attempted was actually committed;
 - or
 - b. Due to factual or legal impossibility if the offense could have been committed had the attendant circumstances been as the actor believed them to be.

13-76-4-102. ATTEMPT - CLASSIFICATION OF OFFENSES. Criminal attempt to commit:

1. A class B misdemeanor is a class C misdemeanor;
2. A class C misdemeanor is an infraction;
3. An infraction is punishable by a penalty not exceeding one-half the penalty for an infraction.

PART 13-76-4-200. CRIMINAL CONSPIRACY.

13-76-4-201. CONSPIRACY - ELEMENTS OF OFFENSE. For the purposes of this part a person is guilty of conspiracy when he, intending that conduct constituting an offense under these ordinances whether he specifically intends to violate the ordinances or not, agrees with one or more persons to engage in or commits an overt act in pursuance of the conspiracy, except where the offense is arson, or burglary, the overt act is not required for the commission of the conspiracy.

13-76-4-202. CONSPIRACY - CLASSIFICATION OF OFFENSES. Conspiracy to commit:

1. A class B misdemeanor is a class C misdemeanor;
2. A class C misdemeanor is an infraction;
3. An infraction is punishable by a penalty not exceeding one-half the penalty for an infraction.

PART 13-76-4-300. EXEMPTIONS AND RESTRICTIONS.

13-76-4-301. SPECIFIC ATTEMPT OR CONSPIRACY OFFENSE PREVAILS. Whenever any offense specifically designates or defines an attempt or conspiracy and provides a penalty for the attempt or conspiracy other than provided in this part, the specific offense shall prevail over the provision of this part.

13-76-4-302. CONVICTION OF INCHOATE AND PRINCIPAL OFFENSE PROHIBITED. No person shall be convicted of both an inchoate and principal offense or of both an attempt to commit an offense and a conspiracy to commit the same offense.

CHAPTER 13-76-5-000. OFFENSES AGAINST THE PERSON.

PART 13-76-5-100. ASSAULT AND RELATED OFFENSES.

13-76-5-101. Reserved.

13-76-5-102. ASSAULT.

1. Assault is:
 - a. An attempt, with unlawful force or violence to do bodily injury to another; or
 - b. A threat accompanied by a show of immediate force or violence, to do bodily injury to another.
2. Assault is a class B misdemeanor.

13-76-5-103 through 13-76-5-105. Reserved.

13-76-5-106. HARASSMENT.

1. A person is guilty of harassment if, with intent to frighten or harrass another, he communicates in writing a threat to commit any violent felony.
2. Harassment is a class C misdemeanor.

13-76-5-107. TERRORISTIC THREAT.

1. A person commits terroristic threat if he threatens to commit any offense involving violence with intent:
 - a. To cause action of any sort by an official or volunteer agency organized to deal with emergencies; or
 - b. To place a person in fear of imminent serious bodily injury.
 - c. To prevent or interrupt the occupation of a place of assembly; or aircraft, automobile or other form of conveyance, but shall not include a facility of public transportation operated by a common carrier.
2. Terroristic threat is a class B misdemeanor.

PART 13-76-5-200. Reserved.

PART 13-76-5-300. INTERFERING WITH CUSTODIAL RIGHTS OR PERSONAL LIBERTY.

13-76-5-301 and 13-76-5-302. Reserved

13-76-5-303. CUSTODIAL INTERFERENCE.

1. A person, whether a parent or other, is guilty of custodial interference if, without good cause, he takes, entices, conceals, or detains a child under the age of sixteen from his parent, guardian, or other lawful custodian:
 - a. Knowing he has no legal right to do so; and
 - b. With intent to hold the child for a period substantially longer than the visitation or custody period previously awarded by a court of competent jurisdiction.
2. A person, whether a parent or other, is guilty of custodial interference if, having actual physical custody of a child under the age of sixteen pursuant to a judicial award of any court of competent jurisdiction which grants to another person visitation or custody rights, and without good cause he conceals or detains the child with intent to deprive the other person of his lawful visitation or custody rights.
3. A person is guilty of custodial interference if without good cause he takes, entices, conceals, or detains an incompetent or other person under the age of sixteen who has been committed by authority of law to the custody of another person or institution from the other person or institution, knowing he has no legal right to do so.
4. Custodial interference is a class B misdemeanor.

13-76-5-304. UNLAWFUL DETENTION.

1. A person commits unlawful detention if he knowingly restrains another unlawfully so as to interfere substantially with his liberty.
2. Unlawful detention is a class B misdemeanor.

PART 13-76-5-400. SEXUAL OFFENSES.

13-76-5-401. UNLAWFUL SEXUAL INTERCOURSE.

1. A person commits unlawful sexual intercourse if under circumstances not amending to a violation of sections 76-5-402, 76-5-402.1 or 76-5-405, *Utah Code Annotated 1953*, that person has sexual relations with a person, not the person's spouse, who is under 16 years of age if the actor is no more than three years older than the victim. Evidence that the actor was not more than three years older than the victim at the time of intercourse shall be raised by the defendant.
2. Unlawful sexual intercourse is a class B misdemeanor.

13-76-5-402. Reserved.

13-76-5-403. SODOMY.

1. A person commits sodomy when the actor engages in any sexual act with a person involving the genitals of one person in the mouth or anus of another person, regardless of the sex of either participant.
2. Sodomy is a class B misdemeanor.

13-76-5-404 through 13-76-5-406. Reserved.

13-76-5-407. MARRIED PERSONS' CONDUCT EXEMPT - LIMITATIONS OF ACTIONS - "PENETRATION" OR "TOUCHING" SUFFICIENT TO CONSTITUTE OFFENSE.

1. The provisions of this part shall not apply to conduct between persons married to each other; provided, however, that for purposes of this part, persons living apart pursuant to a lawful order of a court of competent jurisdiction shall not be deemed to be married.
2. No prosecution may be instituted or maintained under this part unless the alleged offense was brought to the notice of public authority:
 - a. Within three months of its occurrence; or
 - b. Where the alleged victim was less than eighteen years of age or otherwise incompetent to make complaint, within three months after a parent, guardian, or other competent person specifically interested in the victim, other than the alleged offender, learned of the offense.
3. In any prosecution for unlawful sexual intercourse, or sodomy, any sexual penetration or, in the case of sodomy, any touching, however slight, is sufficient to constitute the offense.

CHAPTER 13-76-6-000. OFFENSES AGAINST PROPERTY.

PART 13-76-6-100. PROPERTY DESTRUCTION.

13-76-6-101. DEFINITIONS. For the purposes of this chapter:

1. "Property" means any form of real property or tangible personal property which is capable of being damaged or destroyed and includes habitable structure.

2. "Habitable structure" means any building, vehicle, trailer, railway car, aircraft, or watercraft used for lodging or assembling persons or conducting business whether a person is present or not.
3. "Property" is that of another, if anyone other than the actor has a possessory or proprietary interest in any portion thereof.
4. "Value" means:
 - a. The market value of the property, if totally destroyed, at the time and place of the offense, or where cost of replacement exceeds the market value; or
 - b. Where the market value cannot be ascertained, the cost of repairing or replacing the property within a reasonable time following the offense.
 - c. If the property damaged has a value that cannot be ascertained by the criteria set forth in subsections 1 and 2 above, the property shall be deemed to have a value of \$50.00.

13-76-6-102. ARSON.

1. A person is guilty of arson if, by means of fire or explosives, a person unlawfully and intentionally damages the property of another.
2. Arson is a 3rd degree felony if the damage caused exceeds \$5,000.00. It is a Class A misdemeanor if the damage equals or exceeds \$1,000.00, but is less than \$5,000.00. Arson is a class B misdemeanor if the damage caused exceeds 250.00 but is less than \$1,000.00, and is a class C misdemeanor if the damage is less than \$249.99. In all cases where the damage equals or exceeds \$1,000.00, the crime will be prosecuted by the county.

13-76-6-103. Reserved.

13-76-6-104. RECKLESS BURNING.

1. A person is guilty of reckless burning if he damages the property of another by reckless use of fire or causing an explosion.
2. Reckless burning is a class B misdemeanor if the damage to property exceeds \$500.00 in value; and a class C misdemeanor if the damage to property exceeds \$50.00 in value. Any other violation under this section shall constitute an infraction.

13-76-6-105. Reserved.

13-76-6-106. CRIMINAL MISCHIEF.

1. A person commits criminal mischief if:
 - a. He intentionally damages, defaces or destroys the property of another;
 - b. He recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car or caboose, whether moving or standing.
2. Criminal mischief is defined herein as a class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss in excess of \$250.00 and a class C

misdemeanor if the actor's conduct causes or is intended to cause loss of less than \$250.00.

PART 13-76-6-200. BURGLARY AND CRIMINAL TRESPASS.

13-76-6-201. DEFINITIONS. For purposes of this part:

1. A person "enters or remains unlawfully" in or upon premises when the premises or any portion thereof at the time of the entry or remaining are not open to the public and when the actor is not otherwise licensed or privileged to enter or remain on the premises or such portion thereof.

13-76-6-202 through 13-76-6-204. Reserved.

13-76-6-205. MANUFACTURE OR POSSESSION OF INSTRUMENTS FOR BURGLARY OR THEFT. Any person who manufactures or possesses any instrument, tool, device, article or other thing adapted, designed, or commonly used in advancing or facilitating the commission of any offense under circumstances manifesting an intent to use or knowledge that some person intends to use the same in the commission of a burglary or theft is guilty of a class B misdemeanor.

13-76-6-206. CRIMINAL TRESPASS.

1. For purposes of this section "enter" means intrusion of the entire body.
2. A person is guilty of criminal trespass if under circumstances not amounting to burglary as defined in sections 76-2-202 through 76-2-204 of the Utah Code:
 - a. He enters or remains unlawfully on property; and
 - (i) intends to cause annoyance or injury to any person thereon or damage to any property thereon; or
 - (ii) intends to commit any crime, other than theft or a felony;
 - (iii) is reckless as to whether his presence will cause fear for the safety of another.
 - b. Knowing his entry or presence is unlawful, he enters or remains on property as to which notice against entering is given by:
 - (i) personal communication with the actor by the owner or someone with apparent authority to act for the owner; or
 - (ii) fencing or other enclosure obviously designed to exclude intruders; or
 - (iii) posting of signs reasonably likely to come to the attention of intruders.
3. A violation of subsection 2.a is a class C misdemeanor unless it was committed in a dwelling, in which event it is a class B misdemeanor. A violation of subsection 2.b is an infraction.
4. It is a defense to prosecution under this section:
 - a. That the property was open to the public when the actor entered or remained; and

- b. The actor's conduct did not substantially interfere with the owner's use of the property.

13-76-6-300. Reserved.

PART

13-76-6-400. THEFT.

13-76-6-401. DEFINITIONS. For the purposes of this part:

1. "Property" means anything of value, including real estate, tangible and intangible personal property, captured or domestic animals and birds, written instruments or other writing representing or embodying rights concerning real or personal property, labor, services, or otherwise containing anything of value to the owner, commodities of the public utility nature such as telecommunications, gas, electricity, steam, or water, and trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by him.
2. "Obtain" means, in relation to property, to bring about a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; in relation to labor or services to secure performance thereof; and in relation to a trade secret, to make any facsimile, replica, photograph, or other reproduction.
3. "Purpose to deprive" means to have the conscious object:
 - a. To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or of the use and benefit thereof, would be lost; or
 - b. To restore the property only upon payment of a reward or other compensation;
 - c. To dispose of the property under circumstances that make it unlikely that the owner will recover it.
4. "Obtain or exercise unauthorized control" means, but is not necessarily limited to, conduct heretofore defined or known as commonlaw larceny by trespassory, takin, larceny by conversion, larceny by bailee, and embezzlement.
5. "Deception" occurs when a person intentionally:
 - a. Creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true and that is likely to affect the judgment of another in the trasaction; or
 - b. Fails to correct a false impression of law or fact that the actor previously created or confirmed by words or conduct that is likely to affect the judgement of another and that the actor does not now belive to be true; or
 - c. Prevents another from acquiring information likely to affect his judgment in the transaction; or
 - d. Sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, whether the lien, security interest, claim, or impediment is or is not valid or is or is not a matter of official record; or

- e. Promises performance that is likely to affect the judgement of another in the transaction, which performance the actor does not intend to perform or knows will not be provided, however, that failure to perform the promise in issue without other evidence, of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

13-76-6-402. 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 defense under this part 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 a security interest for the repayment of a debt or obligation.
3. It is a defense under this part that the actor:
 - a. Acted under an honest claim of right to the property or service involved; or
 - b. Acted on the honest belief that he had the right to obtain or exercise control over the property or service as he did; or
 - c. Obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

13-76-6-403. THEFT - EVIDENCE TO SUPPORT ACCUSATION. Conduct denominated theft in this part constitutes a single offense embracing the separate offenses as those heretofore known as larceny, larceny by trick, larceny by bailees, embezzlement, false pretense, extortion, blackmail, and receiving stolen property. An accusation of theft may be supported by evidence that it was committed in any manner specified in sections 13-76-6-404 through 13-76-6-410 subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

13-76-6-404. THEFT - ELEMENTS. A person commits theft if he obtains or exercises unauthorized control over the property of another with a purpose to deprive him thereof.

13-76-6-405. THEFT BY DECEPTION.

1. A person commits theft if he obtains or exercises control over property of another by deception and with the purpose to deprive him thereof.
2. Theft by deception does not occur, however, when there is only falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. "Puffing" means an exaggerated commendation of wares or worth in communications addressed to the public or to a class or group.

13-76-6-406. THEFT BY EXTORTION.

1. A person is guilty of theft if he obtains or exercises control over the property of another by extortion and with a purpose to deprive him thereof.

2. As used in this section, extortion occurs when a person threatens to:
 - a. Cause physical harm in the future to the person threatened or to any other person or to property at any time; or
 - b. Subject the person threatened or any other person to physical confinement or restraint; or
 - c. Engage in other conduct constituting a crime; or
 - d. Accuse any person of a crime or expose him to hatred, contempt or ridicule; or
 - e. Reveal any information or withhold testimony or information with respect to another's legal claim or defense; or
 - f. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
 - g. Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or
 - h. Bring about or continue a strike, boycott or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or
 - i. Do any other act which would not in itself substantially benefit him with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

13-76-6-407. THEFT OF LOST, MISLAID OR MISTAKENLY DELIVERED PROPERTY. A person commits theft when:

1. He obtains property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, without taking reasonable measures to return it to the owner; and
2. He has the purpose to deprive the owner of the property when he obtains the property or at any time prior to taking the measures designated in paragraph A.

13-76-6-408. RECEIVING STOLEN PROPERTY - DUTIES OF PAWNBROKERS.

1. A person commits theft if he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any such property from the owner, knowing the property to be stolen, with a purpose to deprive the owner thereof.
2. The knowledge or belief required for paragraph A is presumed in the case of an actor who:
 - a. Is found in possession or control of other property stolen on a separate occasion; or
 - b. Has received other stolen property within the year preceding the receiving offense charged; or

- c. Being a dealer in property of the sort received, retained or disposed, acquires it for consideration which he knows is far below its reasonable value.
- d. **Duty of Pawnbroker.** Is a pawnbroker or person who has or operates a business dealing in or collecting used or second hand merchandise or personal property, or an agent, employee or representative of the pawnbroker or person who buys, receives or obtains property and fails to require the seller or person delivering the property to certify, in writing, that he has the legal rights to sell the property. If the value given for the property, exceeds \$20 the pawnbroker or person shall also require the seller or person delivering the property to obtain a legible print, preferably the right thumb, at the bottom of the certificate next to his signature and at least one other positive form of identification.

3. As used in this section:

- a. "Receives" means acquiring possession, control, or title or lending on the security of the property;
- b. "Dealer" means a person in the business of buying or selling goods.

13-76-6-409. THEFT OF SERVICES.

1. A person commits theft if he obtains services which he knows are available only for compensation by deception, threat, force, or any other means designed to avoid the due payment thereof.
2. A person commits theft if, having control over the disposition of services of another, to which he knows he is not entitled, he diverts such services to his own benefit or to the benefit of another who he knows is not entitled thereto.
3. As used in this section "services" includes, but is not necessarily limited to, labor, professional service, public utility, and transportation services, restaurant, hotel, motel, tourist cabin, rooming house and like accommodations, the supplying of equipment, tools, vehicles, or trailers for temporary use, telephone or telegraph service, gas, electricity, water or steam, and the like, admission to entertainment, exhibitions, sporting events, or other events for which a charge is made.

13-76-6-410. DEVICES FOR THEFT OF SERVICES - SEIZURE AND DESTRUCTION. It shall be unlawful for any person knowingly to:

1. Make or possess any instrument, apparatus, equipment or device for the use of or for the purpose of, committing or attempting to commit theft as prescribed by section 13-76-6-409; or
2. Sell, offer to sell, advertise, give, transport, or otherwise transfer to another any information, instrument, apparatus, equipment or device or any information, plan or instruction for obtaining, making, or assembling the same, with the intent that it be used, or caused to be used, to commit or attempt to commit theft as prescribed by section 13-76-6-409.
3. Any information, instrument, apparatus, equipment or device, or information, plan or instruction referred to in subsection (1) of this section may be seized pursuant to a court order, lawful search and seizure, lawful arrest, or other lawful process. On the conviction of any person for a violation of any provision of this part, any such information, instrument, apparatus, equipment, device, plan, or instruction shall be destroyed as contraband by the chief of police.

4. Any person who violates any provision of subsection (1) or (2) of this section is guilty of a class B misdemeanor.

13-76-6-411. THEFT BY PERSON HAVING CUSTODY OF PROPERTY PURSUANT TO REPAIR OR RENTAL AGREEMENT. A person is guilty of theft if:

1. Having custody of property pursuant to an agreement between himself or another and the owner thereof whereby the actor or another is to perform for compensation a specific service for the owner involving the maintenance, repair, or use of such property, he intentionally uses or operates it, without the consent of the owner, for his own purposes in a manner constituting a gross deviation from the agreed purpose; or
2. Having custody of any property pursuant to a rental or lease agreement where it is to be returned in a specified manner or at a specified time, intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement.

13-76-6-412. Reserved.

13-76-6-413. THEFT - CLASSIFICATION OF OFFENSES. Theft of property and services as provided in this chapter shall be punishable as a class B misdemeanor.

PART

13-76-6-500. FRAUD.

13-76-6-501. FORGERY - "WRITING" DEFINED.

1. A person is guilty of forgery, if, with purpose to defraud anyone, or with knowledge that he is facilitating a fraud to be perpetrated by anyone, he:
 - a. Alters any writing of another without his authority or utters any such altered writing; or
 - b. Makes, completes, executes, authenticates, issues, transfers, publishes, or utters any writing so that the writing, completion, execution, authentication, issuance, transference, publication, or utterance purports to be the act of another, whether the person is existent or nonexistent, and purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original existed.
2. As used in this section "writing" includes printing or any other method of recording information, checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any other symbols of value, right privilege, or identification.
3. Forgery is a class B misdemeanor.

13-76-6-502. POSSESSION OF FORGED WRITING OR DEVICE FOR WRITINGS. Any person who, with intent to defraud, knowingly possesses any writing that is a forgery as defined in section 13-76-6-501, or who with intent to defraud knowingly possesses any device for making such writing, is guilty of a class B misdemeanor.

13-76-6-503. FRAUDULENT HANDLING OF RECORDABLE WRITINGS. Any person who with intent to deceive or injure anyone falsifies, destroys, removes or conceals any will, deed, mortgage, security instrument, or other writing for which the law provides public recording is guilty of fraudulent handling of recordable writing which is a class B misdemeanor.

13-76-6-504. TAMPERING WITH RECORDS.

1. Any person who, having no privilege to do so, knowingly falsifies, destroys, removes, or conceals any writing, other than the writings enumerated in section 13-76-6-503, or record, public or private, with intent to deceive or injure any person or to conceal any wrongdoings is guilty of tampering with records.
2. Tampering with records is a class B misdemeanor.

13-76-6-505. ISSUING A BAD CHECK - PRESUMPTION.

1. Issuing Bad Check or Draft - Presumption. Any person who issues or passes a check or draft for the payment of money for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor or rent, knowing it will not be paid by the drawee and payment is refused by the drawee is guilty of issuing a bad check or draft.

For purposes of this subsection, a person who issues a check or draft for which payment is refused by the drawee is presumed to know the check or draft would not be paid if he had no account with the drawee at the time of issue.

2. Any person who issues or passes a check or draft for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor, or rent, payment of which check or draft is legally refused by the drawee, is guilty of issuing a bad check or draft if he fails to make good an actual payment to the payee in the amount of the refused check or draft within 14 days of his receiving an actual notice of the check or draft's non-payment.
3. An offense of issuing a bad check or draft is a class B misdemeanor.

13-76-6-506. WRONGFUL USE OF A CREDIT CARDS - DEFINITIONS. For purposes of this part:

1. "Automated banking device" means any machine which, when properly activated by a financial transaction card or a personal identification code, may be used for any of the purposes for which a financial transaction card may be used.
2. "Card holder" means any person or organization named on the face of a financial transaction card to whom or for whose benefit a financial transaction card is issued by an issuer.
3. "Financial transaction card" means:
 - a. Any credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card, or any other card, issued by an issuer for the use of the card holder in obtaining money, goods, services, or anything else of value on credit, or in certifying or guaranteeing to a person or business the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of the person or business; or
 - b. Any instrument or device used in providing the card holder access to a demand or time deposit account for the purpose of making deposits of money or checks in the account, or withdrawing funds from the account in the form of money,

money orders, travelers checks or other form representing value, or transferring funds from any demand or time deposit account to any credit card account in full or partial satisfaction of any outstanding balance existing in the credit card account.

4. "Issuer" means a business organization or financial institution or its agent that issues a financial transaction card.
5. "Personal identification code" means any numerical or alphabetical code assigned to a card holder by the issuer to permit the authorized electronic use of his financial transaction card.

13-76-6-507. UNLAWFUL USE OF CREDIT CARDS TO ACQUIRE GOODS OR SERVICES. It is unlawful for any person to:

1. Knowingly, with intent to defraud, obtain or attempt to obtain credit or purchase or attempt to purchase goods, property, or services, by the use of false, fictitious, altered, counterfeit, revoked, expired, stolen, or fraudulently obtained financial transaction card by any financial transaction card credit number, personal identification code, or by the use of a financial transaction card not authorized by the issuer or card holder;
2. Use a financial transaction card, with intent to defraud, to knowingly and willfully exceed the actual balance of a demand or time deposit account;
3. Use a financial transaction card with intent to defraud, to willfully exceed an authorized credit line by \$500.00 or more, or by 50% of such line, whichever is greater;
4. Willfully, with intent to defraud, deposit to his or any other account by means of an automated banking device, any false, fictitious, forged, altered or counterfeit check, draft, money order, or any other similar documents; or
5. Make application for a financial transaction card to an issuer while knowingly making or causing to be made a false statement or report relative to his name, occupation, financial condition, assets or to willfully and substantially undervalue or underestimate any indebtedness for the purpose of influencing the issuer to issue the financial transaction card.

13-76-6-508. UNLAWFUL ACQUISITION OF CREDIT CARDS. It is unlawful for any person to:

1. Acquire a financial transaction card from another without the consent of the card holder or the issuer, or, with the knowledge that it has been acquired without the consent, receive a financial transaction card with intent to use it in violation of section 13-76-6-507, or sell or transfer a financial transaction card to another person with the knowledge that it will be used in violation of section 13-76-6-507; or
2. Acquire a financial transaction card that he knows was lost, mislaid, or delivered under a mistake as to the identity or address of the card holder and retain possession with intent to use it in violation of section 13-76-6-507, or sell or transfer a financial transaction card to another person with the knowledge that it will be used in violation of section 13-76-6-507.

13-76-6-509. UNLAWFUL RECEIPT OF CREDIT CARDS. It is unlawful for any person to receive, retain, conceal, possess, or dispose of personal property, cash, or other form

representing value, if he knows or has reason to believe the property, cash, or other form representing value has been obtained through unlawful conduct described in sections 13-76-6-507 or 13-76-6-508.

13-76-6-510. PENALTY. Any person found guilty of the unlawful conduct described in sections 13-76-6-507, 13-76-6-508 or 13-76-6-509 is guilty of a class B misdemeanor.

13-76-6-511. DECEPTIVE BUSINESS PRACTICES - DEFINITIONS - DEFENSE.

1. A person is guilty of a class B misdemeanor if, in the course of business, he:

- a. Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity; or
 - b. Sells or offers or exposes for sale or delivers less than the represented quantity of any commodity or service; or
 - c. Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure; or
 - d. Sells or offers or exposes for sale adulterated or mislabeled commodities.
 - (1) "Adulterated" means varying from the standard of composition or quality prescribed, or pursuant to any statute providing criminal penalties for a variance, or set by established commercial usage.
 - (2) "Mislabelled" means varying from the standard of truth or disclosure in labeling prescribed by or pursuant to any statute providing criminal penalties for a variance, or set by established commercial usage; or
 - e. Makes a false or misleading statement in any advertisement addressed to the public or to a substantial segment thereof for the purpose of promoting the purchase or sale of property or services.
 - f. Offers, by advertising or other means of communication, to the public or a substantial number of persons, property, or services as part of the scheme or plan, with intent not to sell or provide the advertised property or service:
 - (1) At the price which he offered them; or
 - (2) In a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or
 - (3) At all.
2. It is an affirmative defense to prosecution under this section that the defendant's conduct was not knowing and reckless.

13-76-6-512. Reserved.

13-76-6-513. UNLAWFUL USE OF PROPERTY BY FIDUCIARY.

1. A person is guilty of theft, punishable under section 13-76-6-413, if he deals with property that has been entrusted to him as a fiduciary, or property of the government or of a financial institution, in a manner which he knows is a violation of his duty and

which involves substantial risk of loss to the owner or to a person for whose benefit the property was entrusted.

2. As used in this section "fiduciary" includes any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.

13-76-6-514. Reserved.

13-76-6-515. USING OR MAKING SLUGS.

1. A person is guilty of a class B misdemeanor if:
 - a. With a purpose to defraud the supplier of property or a service offered or should be by means of a coin machine, he inserts, deposits, or uses a slug in that machine; or
 - b. He makes, possesses, or disposes of a slug with the purpose of enabling a person to use it fraudulently in a coin machine.
2. As used in this section:
 - a. "Coin machine" means any mechanical or electrical device or receptacle designed to receive a coin or bill of a certain denomination, or a token made for the purpose, and, in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or a public or private service.
 - b. "Slug" means any object which, by virtue of its size, shape, or other quality, is capable of being inserted, deposited, or otherwise used in a coin machine or an improper substitute for a genuine coin, bill, or token.

13-76-6-516 through 13-76-6-517. Reserved

13-76-6-518. CRIMINAL SIMULATION.

1. A person is guilty of criminal simulation if, with intent to defraud another;
 - a. He makes or alters an object in whole or in part so that it appears to have value because of age, antiquity, rarity, source, or authorship that it does not have; or
 - b. He sells, passes, or otherwise utters an object so made or altered; or
 - c. He possesses an object so made or altered with intent to sell, pass, or otherwise utter it; or
 - d. He authenticates or certifies an object so made or altered as genuine or as different from what it is.
2. Criminal simulation is punishable as a class B misdemeanor.

13-76-6-519 through 13-76-6-520. Reserved

13-76-6-521. FALSE OR FRAUDULENT INSURANCE CLAIM - PUNISHMENT AS FOR THEFT. Every person who presents, or causes to be presented, any false or fraudulent claim, or any proof in support of any such claim, upon any contract of insurance for the payment of any loss, or who prepares, makes or subscribes any account, certificate of

survey, affidavit or proof of loss, or other book, paper or writing, with intent to present or use the same, or to allow it to be presented or used, in support of any such claim is punishable as in the manner prescribed for theft of property of like value.

PART 13-76-6-600. RETAIL THEFT.

13-76-6-601. DEFINITIONS. As used in this part:

1. "Retail value" means the merchant's stated or advertised price of the merchandise;
2. "Retail mercantile establishment" means any place where merchandise is displayed, held or offered for sale to the public;
3. "Merchandise" means any personal property displayed, held or offered for sale by a merchant;
4. "Merchant" means any owner or operator of any retail mercantile establishment where the merchandise is displayed, held or offered for sale and includes the merchant's employees, servants or agents;
5. "Premises of a retail mercantile establishment" includes, but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking lots or areas set aside for the benefit of those patrons of the retail mercantile establishment;
6. "Minor" means any unmarried person under 18 years of age;
7. "Shopping cart" means those push carts of the types which are commonly provided by grocery stores, drug stores, or other mercantile establishments or markets for the use of the public in transporting commodities in stores and markets from the store to a place outside the store;
8. "Peace officer" means any marshall, chief of police, or police officer of this city; and
9. "Under-ring" means to cause the cashier or other sales recording device to reflect less than the retail value of the merchandise.

13-76-6-602. RETAIL THEFTS - ACTS CONSTITUTING. A person commits the offense of retail theft when he knowingly:

1. Takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of such merchandise; or
2. Alters, transfers, or removes and label, price tag, marking, indicia of value or any other markings which aid in determining value of any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in concert with another at less than the retail value with intention of depriving the merchant of the retail value of such merchandise; or
3. Transfers any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment from the container in or on which such merchandise is

displayed to any other container with intentions of depriving the merchant of the retail value of such merchandise; or

4. Under-rings with intention of depriving the merchant of the retail value of the merchandise; or
5. Removes a shopping cart from the premises of a retail mercantile establishment with intent of depriving the merchant of the possession, use or benefit or such cart.

13-76-6-603 through 13-76-6-605. Reserved.

13-76-6-606. PENALTY. A violation of this part shall be punished according to section 13-76-6-413.

PART

13-76-6-700. COMPUTER FRAUD.

13-76-6-701. TITLE. This part shall be known and cited as the "Computer Fraud Act".

13-76-6-702. DEFINITIONS. As used in this part:

1. "Access" means to directly or indirectly use, attempt to use, instruct, communicate with, cause input to, cause output from, or otherwise make use of any resources of, a computer, computer system, computer network, or any means of communication therewith.
2. "Computer" is any electronic device or communication facility with data processing ability.
3. "Computer system" means a set of related, connected or unconnected devices, software or other computer related equipment.
4. "Computer network" means the interconnection of communication lines between computers or computers and remote terminals.
5. "Property" includes, but is not limited to, electronic impulses, electronically produced data, information, financial instruments, software or programs, in either machine or human readable form, any other tangible or intangible item relating to a computer, computer system, computer network, and any copies thereof.
6. "Services" include, but are not limited to, computer time, data manipulation and storage functions.
7. "Financial statement" includes, but is not limited to, any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card or marketable security.
8. "Software" or "program" means a series of instructions or statements in a form acceptable to a computer, relating to the operations of a computer, or permitting the function of a computer system in a manner designed to provide results therefrom, including but not limited to, system control programs, application programs, or any copies thereof.

13-76-6-703. OFFENSES - DEGREE OF OFFENSE. Any person who willfully gains access to any computer, computer system, computer network, computer software, computer program, or any computer property who knowingly and willfully provides false information or who causes any other person directly or indirectly to enter false information into any

computer, computer system, computer network, computer software, computer program, and thereby devises or executes any scheme or artifice to defraud or obtain money, property, or services, including the unauthorized use of computer time, under false pretenses, representations, or promises, including representations made through a computer, and thereby alters, damages, or destroys any computer, computer system, computer network, computer software, computer program, or any computer property is guilty of a criminal offense as follows:

1. For value less than or equal to \$25.00 a class C misdemeanor; or
2. For value greater than \$25.00 but less than \$300.00 a class B misdemeanor.

13-76-6-704. CONDUCT VIOLATING OTHER ORDINANCES. Prosecution pursuant to this part shall not prevent any prosecution pursuant to another law, where such conduct also constitutes a violation of the other law. No prosecution may be commenced under this part more than three years after the commission of the acts constituting a violation of this part.

PART

13-76-6-800. LIBRARY THEFT.

13-76-6-801. ACTS CONSTITUTING LIBRARY THEFT. A person is guilty of the crime of library theft when he willfully, for the purpose of converting to personal use, and to deprive the owner thereof, conceals on his person or among his belongings a book or other library materials while still on the premises of the library or willfully and without authority removes a book or other library materials from such library building with the intention of covering them to his own use.

13-76-6-802. PRESUMPTION OF INTENT. A person who willfully conceals a book or other library materials on his person or among his belongings while still on the premises of the library or in the immediate vicinity thereof shall be prima facie presumed to have concealed the book or other library materials with the intention of converting them to his own use. If a book or other library materials are found, concealed on his person or among his belongings it shall be prima facie evidence of willful concealment.

13-76-6-803. MUTILATION OF LIBRARY MATERIAL AS LIBRARY THEFT. A person is guilty of the crime of library theft when he or she willfully commits a witnessed or documented mutilation of a library book or other library materials in the library or its immediate vicinity.

13-76-6-804. BOOK OR OTHER LIBRARY MATERIALS TO FIND. The terms "book or other library materials" as used in this part include any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audiovisual materials in any format, electronic data processing records, artifacts, or other documentary, written or printed materials regardless of physical form or characteristics, belonging to, or on loan to or otherwise in the custody of the following:

1. Any public library;
2. Any library of an educational or historical society;
3. Any museum; or
4. Any repository of public records.

13-76-6-805. **PENALTY.** Any person violating the provision of this part shall be punished subject to the provisions of 13-76-6-413.

CHAPTER 13-76-7-000. OFFENSES AGAINST THE FAMILY.

PART 13-76-7-100. MARITAL VIOLATIONS.

13-76-7-101 through 13-76-7-102. Reserved.

13-76-7-103. **ADULTERY.** A married person commits adultery when he voluntarily has sexual intercourse other than with his spouse. Adultery is a class B misdemeanor.

13-76-7-104. FORNICATION.

1. Any unmarried person who shall voluntarily engage in sexual intercourse with another is guilty of fornication.
2. Fornication is a class B misdemeanor.

CHAPTER 13-76-8-000. OFFENSES AGAINST GOVERNMENT.

PART 13-76-8-100. CORRUPT PRACTICES.

13-76-8-101. **DEFINITIONS.** For purposes of this chapter:

1. "Public servant" means any officer or employee of the city, including judges, consultants, jurors, and persons otherwise performing a government function. A person is considered a public servant upon his election appointment, or other designation as such, although he may not yet officially occupy that position.
2. "Party official" means any person holding any post in a political party whether by election, appointment, or otherwise.
3. "Pecuniary benefit" means any advantage in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reduction or increase prosperity generally.
4. A person is a candidate for electoral office upon his filing or being nominated as a candidate for any city office.

13-76-8-102. **CAMPAIGN CONTRIBUTIONS NOT PROHIBITED.** Nothing in this chapter shall be construed to prohibit the giving or receiving of campaign contributions made for the purpose of defraying the costs of a political campaign. No person shall be convicted of any offense solely on the evidence that a campaign contribution was made and that an appointment or nomination was subsequently made by the person to whose campaign or political party the contribution was made.

13-76-8-103. **BRIBERY TO INFLUENCE OFFICIAL OR POLITICAL ACTIONS.** A person is guilty of a class B misdemeanor if:

1. He promises, offers, or gives any pecuniary benefit to another with the purpose of influencing the other's action, decision, opinion, recommendation, vote, nomination, or other exercise of discretion as a public servant, party official, or voter; or