

REFERENCE TITLE: theft; domestic animal; classification

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **HB 2549**

Introduced by  
Representative Payne

AN ACT

AMENDING SECTION 13-1802, ARIZONA REVISED STATUTES; RELATING TO THEFT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1802, Arizona Revised Statutes, is amended to  
3 read:

4 13-1802. Theft; classification; definitions

5 A. A person commits theft if, without lawful authority, the person  
6 knowingly:

7 1. Controls property of another with the intent to deprive the  
8 other person of such property; or

9 2. Converts for an unauthorized term or use services or property of  
10 another entrusted to the defendant or placed in the defendant's possession  
11 for a limited, authorized term or use; or

12 3. Obtains services or property of another by means of any material  
13 misrepresentation with intent to deprive the other person of such property  
14 or services; or

15 4. Comes into control of lost, mislaid or misdelivered property of  
16 another under circumstances providing means of inquiry as to the true  
17 owner and appropriates such property to the person's own or another's use  
18 without reasonable efforts to notify the true owner; or

19 5. Controls property of another knowing or having reason to know  
20 that the property was stolen; or

21 6. Obtains services known to the defendant to be available only for  
22 compensation without paying or an agreement to pay the compensation or  
23 diverts another's services to the person's own or another's benefit  
24 without authority to do so; or

25 7. Controls the ferrous metal or nonferrous metal of another with  
26 the intent to deprive the other person of the metal; or

27 8. Controls the ferrous metal or nonferrous metal of another  
28 knowing or having reason to know that the metal was stolen; or

29 9. Purchases within the scope of the ordinary course of business  
30 the ferrous metal or nonferrous metal of another person knowing that the  
31 metal was stolen.

32 B. A person commits theft if, without lawful authority, the person  
33 knowingly takes control, title, use or management of a vulnerable adult's  
34 property while acting in a position of trust and confidence and with the  
35 intent to deprive the vulnerable adult of the property. Proof that a  
36 person took control, title, use or management of a vulnerable adult's  
37 property without adequate consideration to the vulnerable adult may give  
38 rise to an inference that the person intended to deprive the vulnerable  
39 adult of the property.

40 C. It is an affirmative defense to any prosecution under subsection  
41 B of this section that either:

42 1. The property was given as a gift consistent with a pattern of  
43 gift giving to the person that existed before the adult became vulnerable.

1           2. The property was given as a gift consistent with a pattern of  
2 gift giving to a class of individuals that existed before the adult became  
3 vulnerable.

4           3. The superior court approved the transaction before the  
5 transaction occurred.

6           D. The inferences set forth in section 13-2305 apply to any  
7 prosecution under subsection A, paragraph 5 of this section.

8           E. At the conclusion of any grand jury proceeding, hearing or  
9 trial, the court shall preserve any trade secret that is admitted in  
10 evidence or any portion of a transcript that contains information relating  
11 to the trade secret pursuant to section 44-405.

12           F. Subsection B of this section does not apply to an agent who is  
13 acting within the scope of the agent's duties as or on behalf of a health  
14 care institution that is licensed pursuant to title 36, chapter 4 and that  
15 provides services to the vulnerable adult.

16           G. Theft of property or services with a value of ~~twenty-five~~  
17 ~~thousand dollars~~ \$25,000 or more is a class 2 felony. Theft of property  
18 or services with a value of ~~four thousand dollars~~ \$4,000 or more but less  
19 than ~~twenty-five thousand dollars~~ \$25,000 is a class 3 felony. Theft of  
20 property or services with a value of ~~three thousand dollars~~ \$3,000 or more  
21 but less than ~~four thousand dollars~~ \$4,000 is a class 4 felony, except  
22 that theft of any vehicle engine or transmission is a class 4 felony  
23 regardless of value. Theft of property or services with a value of ~~two~~  
24 ~~thousand dollars~~ \$2,000 or more but less than ~~three thousand dollars~~  
25 \$3,000 is a class 5 felony. Theft of property or services with a value of  
26 ~~one thousand dollars~~ \$1,000 or more but less than ~~two thousand dollars~~  
27 \$2,000 is a class 6 felony. Theft of any property or services valued at  
28 less than ~~one thousand dollars~~ \$1,000 is a class 1 misdemeanor, unless the  
29 property is taken from the person of another, is a firearm, IS A DOMESTIC  
30 ANIMAL or is an animal taken for the purpose of animal fighting in  
31 violation of section 13-2910.01, in which case the theft is a class 6  
32 felony.

33           H. A person who is convicted of a violation of subsection A,  
34 paragraph 1 or 3 of this section that involved property with a value of  
35 ~~one hundred thousand dollars~~ \$100,000 or more is not eligible for  
36 suspension of sentence, probation, pardon or release from confinement on  
37 any basis except pursuant to section 31-233, subsection A or B until the  
38 sentence imposed by the court has been served, the person is eligible for  
39 release pursuant to section 41-1604.07 or the sentence is commuted.

40           I. For the purposes of this section, the value of ferrous metal or  
41 nonferrous metal includes the amount of any damage to the property of  
42 another caused as a result of the theft of the metal.

43           J. In an action for theft of ferrous metal or nonferrous metal:

44           1. Unless satisfactorily explained or acquired in the ordinary  
45 course of business by an automotive recycler that is licensed pursuant to

1 title 28, chapter 10 or by a scrap metal dealer as defined in section  
2 44-1641, proof of possession of scrap metal that was recently stolen may  
3 give rise to an inference that the person in possession of the scrap metal  
4 was aware of the risk that it had been stolen or in some way participated  
5 in its theft.

6 2. Unless satisfactorily explained or sold in the ordinary course  
7 of business by an automotive recycler that is licensed pursuant to title  
8 28, chapter 10 or by a scrap metal dealer as defined in section 44-1641,  
9 proof of the sale of stolen scrap metal at a price substantially below its  
10 fair market value may give rise to an inference that the person selling  
11 the scrap metal was aware of the risk that it had been stolen.

12 K. For the purposes of this section:

13 1. "Adequate consideration" means the property was given to the  
14 person as payment for bona fide goods or services provided by the person  
15 and the payment was at a rate that was customary for similar goods or  
16 services in the community that the vulnerable adult resided in at the time  
17 of the transaction.

18 2. "DOMESTIC ANIMAL" MEANS A DOG OR CAT THAT IS KEPT OR INTENDED TO  
19 BE KEPT AS A HOUSEHOLD PET.

20 ~~2.~~ 3. "Ferrous metal" has the same meaning prescribed in section  
21 44-1641.

22 ~~3.~~ 4. "Pattern of gift giving" means two or more gifts that are  
23 the same or similar in type and monetary value.

24 ~~4.~~ 5. "Position of trust and confidence" has the same meaning  
25 prescribed in section 46-456.

26 ~~5.~~ 6. "Property" includes all forms of real property and personal  
27 property.

28 ~~6.~~ 7. "Vulnerable adult" has the same meaning prescribed in  
29 section 46-451.