

REFERENCE TITLE: theft; classification; private arrest

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1613

Introduced by
Senator Wadsack

AN ACT

AMENDING SECTIONS 13-1802 AND 13-3884, 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 or more but less than two thousand dollars is a class~~
27 ~~6 felony.~~ Theft of PROPERTY THAT IS TAKEN FROM THE PERSON OF ANOTHER,
28 THAT IS A FIREARM OR THAT IS AN ANIMAL TAKEN FOR THE PURPOSE OF ANIMAL
29 FIGHTING IN VIOLATION OF SECTION 13-2910.01 OR theft OF any OTHER property
30 or services valued at less than ~~one thousand dollars is a class 1~~
31 ~~misdemeanor, unless the property is taken from the person of another, is a~~
32 ~~firearm or is an animal taken for the purpose of animal fighting in~~
33 ~~violation of section 13-2910.01, in which case the theft \$2,000~~ is a class
34 6 felony.

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

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

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

2 1. Unless satisfactorily explained or acquired in the ordinary
3 course of business by an automotive recycler that is licensed pursuant to
4 title 28, chapter 10 or by a scrap metal dealer as defined in section
5 44-1641, proof of possession of scrap metal that was recently stolen may
6 give rise to an inference that the person in possession of the scrap metal
7 was aware of the risk that it had been stolen or in some way participated
8 in its theft.

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

15 K. For the purposes of this section:

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

21 2. "Ferrous metal" has the same meaning prescribed in section
22 44-1641.

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

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

27 5. "Property" includes all forms of real property and personal
28 property.

29 6. "Vulnerable adult" has the same meaning prescribed in section
30 46-451.

31 Sec. 2. Section 13-3884, Arizona Revised Statutes, is amended to
32 read:

33 13-3884. Arrest by private person

34 A private person may make an arrest:

35 1. When the person to be arrested has in ~~his~~ THE PRIVATE PERSON'S
36 presence committed a misdemeanor amounting to a breach of the peace, A
37 THEFT OF PROPERTY FROM A RETAIL STORE or a felony.

38 2. When a felony has been in fact committed and ~~he~~ THE PRIVATE
39 PERSON has reasonable ground to believe that the person to be arrested has
40 committed it.