

IN THE SENATE

SENATE BILL NO. 1105

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THEFT; AMENDING SECTION 18-2403, IDAHO CODE, TO PROVIDE FOR
OTHER EQUIPMENT IN CERTAIN TYPES OF THEFT.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-2403, Idaho Code, be, and the same is hereby
amended to read as follows:

18-2403. THEFT. (1) A person steals property and commits theft when,
with intent to deprive another of property or to appropriate the same to him-
self or to a third person, he wrongfully takes, obtains or withholds such
property from an owner thereof.

(2) Theft includes a wrongful taking, obtaining or withholding of an-
other's property, with the intent prescribed in subsection (1) of this sec-
tion, committed in any of the following ways:

(a) By deception obtains or exerts control over property of the owner;

(b) By conduct heretofore defined or known as larceny; common law
larceny by trick; embezzlement; extortion; obtaining property, money
or labor under false pretenses; or receiving stolen goods;

(c) By acquiring lost property. A person acquires lost property when
he exercises control over 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 the nature or amount of the property, with-
out taking reasonable measures to return such property to the owner; or
a person commits theft of lost or mislaid property when he:

1. Knows or learns the identity of the owner or knows, or is aware
of, or learns of a reasonable method of identifying the owner; and

2. Fails to take reasonable measures to restore the property to
the owner; and

3. Intends to deprive the owner permanently of the use or benefit
of the property.

(d) By false promise:

1. A person obtains property by false promise when pursuant to a
scheme to defraud, he obtains property of another by means of a
representation, express or implied, that he or a third person will
in the future engage in particular conduct, and when he does not
intend to engage in such conduct or, as the case may be, does not
believe that the third person intends to engage in such conduct.

2. In any prosecution for theft based upon a false promise, the
defendant's intention or belief that the promise would not be per-
formed may not be established by or inferred from the fact alone
that such promise was not performed. Such a finding may be based
only upon evidence establishing that the facts and circumstances
of the case are consistent with guilty intent or belief and in-

1 consistent with innocent intent or belief, and excluding to a
 2 moral certainty every reasonable hypothesis except that of the
 3 defendant's intention or belief that the promise would not be per-
 4 formed;

5 (e) By extortion. A person obtains property by extortion when he com-
 6 pels or induces another person to deliver such property to himself or to
 7 a third person by means of instilling in him a fear that, if the property
 8 is not so delivered, the actor or another will:

- 9 1. Cause physical injury to some person in the future; or
- 10 2. Cause damage to property; or
- 11 3. Engage in other conduct constituting a crime; or
- 12 4. Accuse some person of a crime or cause criminal charges to be
- 13 instituted against him; or
- 14 5. Expose a secret or publicize an asserted fact, whether true
- 15 or false, tending to subject some person to hatred, contempt or
- 16 ridicule; or
- 17 6. Cause a strike, boycott or other collective labor group action
- 18 injurious to some person's business; except that such a threat
- 19 shall not be deemed extortion when the property is demanded or
- 20 received for the benefit of the group in whose interest the actor
- 21 purports to act; or
- 22 7. Testify or provide information or withhold testimony or infor-
- 23 mation with respect to another's legal claim or defense; or
- 24 8. Use or abuse his position as a public servant by performing some
- 25 act within or related to his official duties, or by failing or re-
- 26 fusing to perform an official duty, in such manner as to affect
- 27 some person adversely; or
- 28 9. Perform any other act which would not in itself materially ben-
- 29 efit the actor but which is calculated to harm another person mate-
- 30 rially with respect to his health, safety, business, calling, ca-
- 31 reer, financial condition, reputation or personal relationships.

32 (3) A person commits theft when he knowingly takes or exercises unau-
 33 thorized control over, or makes an unauthorized transfer of an interest
 34 in, the property of another person, with the intent of depriving the owner
 35 thereof.

36 (4) A person commits theft when he knowingly receives, retains, con-
 37 ceals, obtains control over, possesses, or disposes of stolen property,
 38 knowing the property to have been stolen or under such circumstances as would
 39 reasonably induce him to believe that the property was stolen, and

- 40 (a) Intends to deprive the owner permanently of the use or benefit of
- 41 the property; or
- 42 (b) Knowingly uses, conceals or abandons the property in such manner as
- 43 to deprive the owner permanently of such use or benefit; or
- 44 (c) Uses, conceals, or abandons the property knowing such use, conceal-
- 45 ment or abandonment probably will deprive the owner permanently of such
- 46 use or benefit.
- 47 (5) Theft of labor or services or use of property.

48 (a) A person commits theft when he obtains the temporary use of prop-
 49 erty, labor or services of another which are available only for hire, by

1 means of threat or deception or knowing that such use is without the con-
2 sent of the person providing the property, labor or services.

3 (b) A person commits theft when after renting or leasing a motor vehicle
4 or other equipment under an agreement in writing which provides for the
5 return of the vehicle or other equipment to a particular place at a par-
6 ticular time, he willfully or intentionally fails to return the vehicle
7 or other equipment to that place within forty-eight (48) hours after the
8 time specified.

9 (c) A person commits theft if, having control over the disposition of
10 services of others, to which he is not entitled, he knowingly diverts
11 such services to his own benefit or to the benefit of another not enti-
12 tled thereto.