

IN THE SENATE

SENATE BILL NO. 1340

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THEFT; AMENDING SECTION 18-2402, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 18-2402, Idaho Code, be, and the same is hereby amended to read as follows:

18-2402. DEFINITIONS. The following definitions are applicable to this chapter:

(1) "Appropriate." To "appropriate" property of another to oneself or a third person means:

(a) To exercise control over it, or to aid a third person to exercise control over it, permanently or for so extended a period or under such circumstances as to acquire the major portion of its economic value or benefit; or

(b) To dispose of the property for the benefit of oneself or a third person.

(2) "Deception" means knowingly to:

(a) Create or confirm another's impression ~~which~~ that is false and ~~which~~ that the offender does not believe to be true; or

(b) Fail to correct a false impression ~~which~~ that the offender previously has created or confirmed; or

(c) Prevent another from acquiring information pertinent to the disposition of the property involved; or

(d) Sell or otherwise transfer or encumber property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property whether such impediment is or is not valid, or is or is not a matter of official record; or

(e) Promise performance ~~which~~ that the offender does not intend to perform or knows will not be performed. Failure to perform, standing alone, is not evidence that the offender did not intend to perform.

(3) "Deprive." To "deprive" another of property means:

(a) To withhold it or cause it to be withheld from him permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to him; or

(b) To dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer of interest or possession, whether to the offender or to another; and

1 (b) In relation to labor or services, to secure the performance
2 thereof.

3 (5) "Obtains or exerts control" over property_T includes_T but is not
4 limited to_T the taking, carrying away, or the sale, conveyance, or transfer
5 of title to, or interest in, or possession of property.

6 (6) "Owner." When property is taken, obtained, or withheld by one (1)
7 person from another person, an owner thereof means any person who has a right
8 to possession thereof superior to that of the taker, obtainer, or with-
9 holder. "Owner" includes any person who physically delivers or transfers
10 goods or property to a purchaser through an agreement or contract in which
11 the purchaser has entered into fraudulently by having no intention to pay
12 any amount for the goods or property. For the purposes of this chapter and
13 regardless of any contrary provisions of chapter 2, title 28, Idaho Code,
14 such owner retains a superior right to possession of such goods or property
15 over the fraudulent purchaser.

16 (7) "Person" means an individual, corporation, association, public or
17 private corporation, city or other municipality, county, state agency, or
18 the state of Idaho.

19 (8) "Property" means anything of value. Property includes real es-
20 tate, money, commercial instruments, admission or transportation tickets,
21 written instruments representing or embodying rights concerning anything of
22 value, labor or services, or otherwise of value to the owner; things grow-
23 ing on, affixed to, or found on land, or part of or affixed to any building;
24 electricity, gas, steam, and water; birds, animals and fish, which ordinar-
25 ily are kept in a state of confinement; food and drink; samples, cultures,
26 microorganisms, specimens, records, recordings, documents, blueprints,
27 drawings, maps, and whole or partial copies, descriptions, photographs,
28 prototypes or models thereof; or any other articles, materials, devices,
29 substances and whole or partial copies, descriptions, photographs, proto-
30 types or models thereof which constitute, represent, evidence, reflect or
31 record a secret scientific, technical, merchandising, production or man-
32 agement information, design, process, procedure, formula, invention, or
33 improvement.

34 (9) "Service" includes_T but is not limited to_T labor, professional
35 service, transportation service, the supplying of hotel accommodations,
36 restaurant services, entertainment, (a communication system) the supplying
37 of equipment for use, and the supplying of commodities of a public utility
38 nature such as gas, electricity, steam and water. A ticket or equivalent
39 instrument which that evidences a right to receive a service is not in itself
40 service but constitutes property within the meaning of subsection (8) of
41 this section.

42 (10) "Stolen property" means property over which control has been ob-
43 tained by theft.

44 (11) "Value." The value of property shall be ascertained as follows:

45 (a) Except as otherwise specified in this section, value means the mar-
46 ket value of the property at the time and place of the crime, or if such
47 cannot be satisfactorily ascertained, the cost of replacement of the
48 property within a reasonable time after the crime.

49 (b) Whether or not they have been issued or delivered, certain written
50 instruments, not including those having a readily ascertainable market

1 value such as some public and corporate bonds and securities, shall be
2 evaluated as follows:

3 1. The value of an instrument constituting an evidence of debt,
4 such as a check, draft or promissory note, shall be deemed the
5 amount due or collectible thereon or thereby, such figure ordi-
6 narily being the face amount of the indebtedness less any portion
7 thereof which has been satisfied.

8 2. The value of a ticket or equivalent instrument ~~which~~ that evi-
9 dences a right to receive a transportation, entertainment or other
10 service shall be deemed the price stated thereon, if any; and if
11 no price is stated thereon, the value shall be deemed the price of
12 such ticket or equivalent instrument ~~which~~ that the issuer charges
13 the general public.

14 3. The value of any other instrument ~~which~~ that creates, releases,
15 discharges or otherwise affects any valuable legal right, privi-
16 lege or obligation shall be deemed the greatest amount of economic
17 loss ~~which~~ the owner of the instrument might reasonably suffer by
18 virtue of the loss of the instrument.

19 (c) When the value of property cannot be satisfactorily ascertained
20 pursuant to the standards set forth in paragraphs (a) and (b) of this
21 subsection, its value shall be deemed to be one thousand dollars
22 (\$1,000) or less.

23 (d) For the purpose of establishing value of any written instrument,
24 the interest of any owner or owners entitled to part or all of the prop-
25 erty represented by such instrument, by reason of such instrument, may
26 be shown, even if another owner may be named in the complaint, informa-
27 tion or indictment.

28 SECTION 2. An emergency existing therefor, which emergency is hereby
29 declared to exist, this act shall be in full force and effect on and after
30 July 1, 2022.