

THEFT DEFENSE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends the defenses available to those charged with theft.

Highlighted Provisions:

This bill:

- ▶ provides that it is not a defense to theft of livestock that the livestock is sick, injured, or a liability to the owner; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-402, as last amended by Laws of Utah 2021, Chapter 57

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-6-402** is amended to read:

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.

30 (2) It is ~~[no]~~ not a defense under this part that the actor:

31 (a) ~~[that the actor]~~ has an interest in the property or service stolen if another person also
32 has an interest that the actor is not entitled to infringe, ~~[provided an interest in property for~~
33 ~~purposes of this subsection shall not include]~~ unless the interest is a security interest for the
34 repayment of a debt or obligation~~[-];~~ or

35 (b) takes livestock, as defined in Section 76-6-110, from the owner because the
36 livestock is sick, injured, or a liability to the owner.

37 (3) It is a defense under this part that the actor:

38 (a) ~~[Acted]~~ acted under an honest claim of right to the property or service involved;
39 ~~[or]~~

40 (b) ~~[Acted]~~ acted in the honest belief that ~~[he]~~ the actor had the right to obtain or
41 exercise control over the property or service ~~[as he did]~~ in the manner the actor obtained or
42 exercised control; or

43 (c) ~~[Obtained]~~ obtained or exercised control over the property or service honestly
44 believing that the owner, if present, would have consented.

45 (4) A livestock guardian dog is presumed to belong to an owner of the livestock with
46 which the livestock guardian dog ~~[was]~~ is living at the time of an alleged violation of this part.