CHAPTER 15

THEFT

§351. Consolidation

Conduct denominated theft in this chapter constitutes a single crime embracing the separate crimes such as those heretofore known as larceny, larceny by trick, larceny by bailee, embezzlement, false pretenses, extortion, blackmail, shoplifting and receiving stolen property. An accusation of theft may be proved by evidence that it was committed in any manner that would be theft under this chapter, notwithstanding the specification of a different manner in the complaint, information or indictment, subject only to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief if the conduct of the defense would be prejudiced by lack of fair notice or by surprise. If the evidence is sufficient to permit a finding of guilt of theft in more than one manner, no election among those manners is required. [PL 2007, c. 475, §11 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 317, §7 (AMD). PL 2007, c. 475, §11 (AMD).

§352. Definitions

As used in this chapter, unless a different meaning is plainly required by the context: [PL 1975, c. 499, §1 (NEW).]

1. "Property" means anything of value, including but not limited to:

A. Real estate and things growing thereon, affixed to or found thereon; [PL 1975, c. 499, §1 (NEW).]

B. Tangible and intangible personal property; [PL 1975, c. 499, §1 (NEW).]

C. Captured or domestic animals, birds or fishes; [PL 1975, c. 499, §1 (NEW).]

D. Written instruments, including credit cards, or other writings representing or embodying rights concerning real or personal property, labor, services or otherwise containing anything of value to the owner; [PL 1975, c. 499, §1 (NEW).]

E. Commodities of a public utility nature such as telecommunications, gas, electricity, steam or water; and [PL 1975, c. 499, §1 (NEW).]

F. Trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by the owner. [PL 2001, c. 383, §28 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §28 (AMD); PL 2001, c. 383, §156 (AFF).]

2. "Obtain" means:

A. In relation to property, to bring about, in or out of this State, a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; [PL 2001, c. 383, §29 (NEW); PL 2001, c. 383, §156 (AFF).]

B. In relation to labor or services, to secure performance of labor or services; and [PL 2001, c. 383, §29 (NEW); PL 2001, c. 383, §156 (AFF).]

C. In relation to a trade secret, to make any facsimile, replica, photograph or other reproduction. [PL 2001, c. 383, §29 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §29 (RPR); PL 2001, c. 383, §156 (AFF).]

3. "Intent to deprive" means to have the conscious object:

A. To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or the use and benefit of the property, would be lost; or [PL 2001, c. 383, §30 (AMD); PL 2001, c. 383, §156 (AFF).]

B. To restore the property only upon payment of a reward or other compensation; or [PL 1975, c. 499, §1 (NEW).]

C. To use or dispose of the property under circumstances that make it unlikely that the owner will recover it or that manifest an indifference as to whether the owner will recover it. [PL 1981, c. 317, §8 (AMD).]

[PL 2001, c. 383, §30 (AMD); PL 2001, c. 383, §156 (AFF).]

4. "Property of another" includes property in which any person or government other than the actor has an interest that the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in the possession of the actor may not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement.

[PL 2001, c. 383, §31 (AMD); PL 2001, c. 383, §156 (AFF).]

5. The meaning of "value" must be determined according to the following.

A. Except as otherwise provided in this subsection, value means the market value of the property or services at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property or services within a reasonable time after the crime. [PL 1975, c. 499, §1 (NEW).]

B. The value of a written instrument that does not have a readily ascertainable market value, in the case of an instrument such as a check, draft or promissory note, is deemed the amount due or collectible on the instrument, and, in the case of any other instrument that creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation, is deemed the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument. [PL 2001, c. 383, §32 (AMD); PL 2001, c. 383, §156 (AFF).]

C. The value of a trade secret that does not have a readily ascertainable market value is deemed any reasonable value representing the damage to the owner suffered by reason of losing an advantage over those who do not know of or use the trade secret. [PL 2001, c. 383, §32 (AMD); PL 2001, c. 383, §156 (AFF).]

D. If the value of property or services cannot be ascertained beyond a reasonable doubt pursuant to the standards set forth in paragraphs A to C, the trier of fact may find the value to be not less than a certain amount, and if no such minimum value can be thus ascertained, the value is deemed to be an amount less than $500. [PL 2005, c. 527, §6 (AMD).]

E. Amounts of value involved in thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated to charge a single theft of appropriate class or grade. Subject to the requirement that the conduct of the defense may not be prejudiced by lack of fair notice or by surprise, the court may at any time order that a single aggregated count be considered as separate thefts. An aggregated count of theft may not be deemed duplicitous because of such an order and an election may not be required. Prosecution may be brought in any venue in which one of the thefts that have been aggregated was committed. [PL 2001, c. 383, §32 (AMD); PL 2001, c. 383, §156 (AFF).]

F. The actor's culpability as to value is not an essential requisite of liability, unless otherwise expressly provided. [PL 2001, c. 383, §32 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2005, c. 527, §6 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§52-54 (AMD). PL 1977, c. 510, §46 (AMD). PL 1981, c. 317, §8 (AMD). PL 1995, c. 224, §2 (AMD). PL 2001, c. 383, §§28-32 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 389, §2 (AMD). PL 2005, c. 199, §3 (AMD). PL 2005, c. 527, §6 (AMD).

§353. Theft by unauthorized taking or transfer

1. A person is guilty of theft if:

A. The person obtains or exercises unauthorized control over the property of another with intent to deprive the other person of the property. Violation of this paragraph is a Class E crime; [PL 2005, c. 199, §4 (AMD).]

B. The person violates paragraph A and:

(1) The value of the property is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime; or [PL 2007, c. 476, §10 (AMD).]

C. The person knowingly operates an audiovisual or audio recording function of any device in a motion picture theater while a motion picture is being exhibited for the purpose of making a copy of the motion picture, without the written consent of the motion picture theater owner. Violation of this paragraph is a Class D crime. [PL 2005, c. 199, §4 (NEW).]

[PL 2007, c. 476, §10 (AMD).]

2. As used in this section, "exercises unauthorized control" includes but is not limited to conduct formerly defined or known as common law larceny by trespassory taking, larceny by conversion, larceny by bailee and embezzlement.

[PL 2001, c. 383, §33 (RPR); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2001, c. 383, §33 (RPR). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D3 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2005, c. 199, §4 (AMD). PL 2007, c. 476, §10 (AMD).

§353-A. Theft by unauthorized taking or transfer at a casino or slot machine facility (REPEALED)

SECTION HISTORY

PL 2011, c. 585, §14 (NEW). PL 2013, c. 96, §2 (RP).

§354. Theft by deception

1. A person is guilty of theft if:

A. The person obtains or exercises control over property of another as a result of deception and with intent to deprive the other person of the property. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §34 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the property is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §11 (AMD).]

[PL 2007, c. 476, §11 (AMD).]

2. For purposes of this section, deception occurs when a person intentionally:

A. Creates or reinforces an impression that is false and that the person does not believe to be true, including false impressions that the person is a veteran or a member of the Armed Forces of the United States or a state military force and false impressions as to identity, law, value, knowledge, opinion, intention or other state of mind; except that an intention not to perform a promise, or knowledge that a promise will not be performed, may not be inferred from the fact alone that the promise was not performed; [PL 2015, c. 437, §1 (AMD).]

B. Fails to correct an impression that is false and that the person does not believe to be true and that:

(1) The person had previously created or reinforced; or

(2) The person knows to be influencing another whose property is involved and to whom the person stands in a fiduciary or confidential relationship; [PL 2001, c. 383, §34 (RPR); PL 2001, c. 383, §156 (AFF).]

C. Prevents another from acquiring information that is relevant to the disposition of the property involved; or [PL 2001, c. 383, §34 (RPR); PL 2001, c. 383, §156 (AFF).]

D. Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property that the person transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid, or is or is not a matter of official record. [PL 2001, c. 383, §34 (RPR); PL 2001, c. 383, §156 (AFF).]

[PL 2015, c. 437, §1 (AMD).]

3. It is not a defense to a prosecution under this section that the deception related to a matter that was of no pecuniary significance or that the person deceived acted unreasonably in relying on the deception.

[PL 2001, c. 383, §34 (RPR); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §47 (AMD). PL 1999, c. 455, §1 (AMD). PL 2001, c. 383, §34 (RPR). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D4 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §11 (AMD). PL 2015, c. 21, §1 (AMD). PL 2015, c. 437, §1 (AMD).

§354-A. Insurance deception

1. A person is guilty of theft if:

A. The person obtains or exercises control over property of another as a result of insurance deception and with an intent to deprive the other person of the property. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §35 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the property is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §12 (AMD).]

[PL 2007, c. 476, §12 (AMD).]

2. For purposes of this section, insurance deception occurs when a person intentionally makes a misrepresentation or written false statement that the person does not believe to be true relating to a material fact to any person engaged in the business of insurance concerning any of the following:

A. An application for the issuance or renewal of an insurance policy; [PL 1997, c. 779, §1 (NEW).]

B. The rating of an insurance policy; [PL 1997, c. 779, §1 (NEW).]

C. Payment made in accordance with an insurance policy; [PL 1997, c. 779, §1 (NEW).]

D. A claim for payment or benefit pursuant to an insurance policy; or [PL 1997, c. 779, §1 (NEW).]

E. Premiums paid on an insurance policy. [PL 1997, c. 779, §1 (NEW).]
[PL 1997, c. 779, §1 (NEW).]

3. It is not a defense to a prosecution under this section that the deception related to a matter that was of no pecuniary significance or that the person deceived acted unreasonably in relying on the deception.
[PL 2001, c. 383, §36 (RPR); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1997, c. 779, §1 (NEW). PL 2001, c. 383, §§35,36 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D5 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §12 (AMD).

§355. Theft by extortion

1. A person is guilty of theft if the person obtains or exercises control over the property of another as a result of extortion and with intent to deprive the other person of the property.
[PL 2001, c. 383, §37 (AMD); PL 2001, c. 383, §156 (AFF).]

2. As used in this section, extortion occurs when a person threatens to:

A. Cause physical harm in the future to the person threatened or to any other person or to property at any time; or [PL 1975, c. 499, §1 (NEW).]

B. Do any other act that would not in itself substantially benefit the person but that would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation or personal relationships. [PL 2001, c. 383, §38 (AMD); PL 2001, c. 383, §156 (AFF).]
[PL 2001, c. 383, §38 (AMD); PL 2001, c. 383, §156 (AFF).]

3. Violation of this section is a Class C crime.
[PL 2001, c. 383, §39 (NEW); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2001, c. 383, §§37-39 (AMD). PL 2001, c. 383, §156 (AFF).

§356. Theft of lost, mislaid or mistakenly delivered property

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 317, §9 (RPR). PL 1981, c. 529, §1 (RPR). PL 2001, c. 383, §40 (RP). PL 2001, c. 383, §156 (AFF).

§356-A. Theft of lost, mislaid or mistakenly delivered property

1. A person is guilty of theft if:

A. The person obtains or exercises control over the property of another that the person knows to have been lost or mislaid or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property and, with the intent to deprive the owner of the property at any time subsequent to acquiring it, the person fails to take reasonable measures to return it. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §41 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the property is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §13 (AMD).]

[PL 2007, c. 476, §13 (AMD).]

SECTION HISTORY

PL 2001, c. 383, §41 (NEW). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D6 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §13 (AMD).

§357. Theft of services

1. A person is guilty of theft if:

A. The person obtains services by deception, threat, force or any other means designed to avoid the due payment for the services that the person knows are available only for compensation. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §42 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the services is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(3) The value of the services is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(4) The value of the services is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(5) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §14 (AMD).]

[PL 2007, c. 476, §14 (AMD).]

2. A person is guilty of theft if:

A. Having control over the disposition of services of another, to which the person knows the person is not entitled, the person diverts such services to the person's own benefit or to the benefit of some other person who the person knows is not entitled to the services. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §42 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the services is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) That person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(3) The value of the services is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(4) The value of the services is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(5) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §15 (AMD).]

[PL 2007, c. 476, §15 (AMD).]

3. As used in this section:

A. "Deception" has the same meaning as in section 354; [PL 2001, c. 383, §42 (NEW); PL 2001, c. 383, §156 (AFF).]

B. "Services" includes, but is not limited to, labor; professional service; public utility service; transportation service; ski-lift service; restaurant, hotel, motel, tourist cabin, rooming house and like accommodations; the supplying of equipment, tools, vehicles or trailers for temporary use; telephone, cellular telephone, telegraph, cable television or computer service; gas, electricity, water or steam; admission to entertainment, exhibitions, sporting events or other events; or other services for which a charge is made; and [PL 2001, c. 383, §42 (NEW); PL 2001, c. 383, §156 (AFF).]

C. "Threat" is deemed to occur under the circumstances described in section 355, subsection 2.
[PL 2001, c. 383, §42 (NEW); PL 2001, c. 383, §156 (AFF).]
[PL 2001, c. 383, §42 (RPR); PL 2001, c. 383, §156 (AFF).]

4. When compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels, restaurants, ski lifts, garages or sporting events, nonpayment prior to use or enjoyment, refusal to pay or absconding without payment or offer to pay gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the service was obtained by deception.
[PL 2001, c. 383, §42 (RPR); PL 2001, c. 383, §156 (AFF).]

5. Proof that utility services or electricity services have been improperly diverted or that devices belonging to the utility or electricity service provider and installed for the delivery, regulation or measurement of utility services or electricity services have been interfered with gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person to whom the utility service or electricity service is being delivered or diverted knowingly created or caused to be created the improper diversion or interference with the devices of the utility or electricity service provider.

This inference does not apply unless the person to whom the utility service or electricity service is being delivered has been furnished the service for at least 30 days.

For purposes of this subsection, "electricity service" means electric billing and metering services, as defined in Title 35-A, section 3201, subsection 8, and the service of a competitive electricity provider, as defined in Title 35-A, section 3201, subsection 5.
[PL 2001, c. 383, §42 (RPR); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 183, §§1,2 (AMD). PL 1989, c. 138 (AMD). PL 1993, c. 106, §1 (AMD). PL 1995, c. 107, §1 (AMD). PL 1999, c. 657, §8 (AMD). PL 2001, c. 383, §42 (RPR). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §§D7,8 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §§14, 15 (AMD).

§357-A. Theft of utility services

(REPEALED)

SECTION HISTORY

PL 1981, c. 668, §1 (NEW). PL 1993, c. 106, §2 (RP).

§358. Theft by misapplication of property

1. A person is guilty of theft if:

A. The person obtains property from anyone or personal services from an employee upon agreement, or subject to a known legal obligation, to make a specified payment or other disposition to a 3rd person or to a fund administered by that person, whether from that property or its proceeds or from that person's own property to be reserved in an equivalent or agreed amount, if that person intentionally or recklessly fails to make the required payment or disposition and deals with the property obtained or withheld as that person's own. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §43 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the property is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than $2,000 and the person is a payroll processor. Violation of this paragraph is a Class B crime;

(5) The value of the property is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(6) The value of the property is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime;

(7) The value of the property is more than $1,000 but not more than $2,000 and the person is a payroll processor. Violation of this subparagraph is a Class C crime;

(8) The person is a payroll processor and has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class B crime; or

(9) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §16 (AMD).]

[PL 2007, c. 476, §16 (AMD).]

2. Liability under subsection 1 is not affected by the fact that it may be impossible to identify particular property as belonging to the victim at the time of the failure to make the required payment or disposition.

[PL 1975, c. 499, §1 (NEW).]

3. Proof that a person is an officer or employee of the government or of a financial institution gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person:

A. Knows of any legal obligation relevant to the person's liability under this section; and [PL 2001, c. 383, §44 (AMD); PL 2001, c. 383, §156 (AFF).]

B. Dealt with the property as the person's own if the person fails to pay or account upon lawful demand, or if an audit reveals a shortage or falsification of the person's accounts. [PL 2001, c. 383, §44 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §44 (AMD); PL 2001, c. 383, §156 (AFF).]

4. "Payroll processor" has the same meaning as in Title 10, section 1495.

[PL 2001, c. 383, §45 (NEW); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2001, c. 383, §§43-45 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D9 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §16 (AMD).

§359. Receiving stolen property

1. A person is guilty of theft if:

A. The person receives, retains or disposes of the property of another knowing that it has been stolen, or believing that it has probably been stolen, with the intent to deprive the owner of the property. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §46 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the property is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §17 (AMD).]

[PL 2007, c. 476, §17 (AMD).]

2. As used in this section, "receives" means acquiring possession, control or title, or lending on the security of the property. For purposes of this section, property is "stolen" if it was obtained or unauthorized control was exercised over it in violation of this chapter.

[PL 1975, c. 740, §55 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §55 (AMD). PL 2001, c. 383, §46 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D10 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §17 (AMD).

§360. Unauthorized use of property

1. A person is guilty of theft if:

A. Knowing that the person does not have the consent of the owner, the person takes, operates or exercises control over a vehicle, or, knowing that a vehicle has been so wrongfully obtained, the person rides in the vehicle. Violation of this paragraph is a Class D crime; [PL 2003, c. 510, Pt. C, §4 (AMD).]

A-1. The person violates paragraph A and the person has 2 or more prior convictions for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine

offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime; [PL 2007, c. 476, §18 (AMD).]

B. Having custody of a vehicle pursuant to an agreement between the person and the owner of the vehicle whereby the person or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of the vehicle, the person intentionally uses or operates the vehicle, without the consent of the owner, for the person's own purposes in a manner constituting a gross deviation from the agreed purpose. Violation of this paragraph is a Class D crime; [PL 2003, c. 510, Pt. C, §4 (AMD).]

B-1. The person violates paragraph B and the person has 2 or more prior convictions for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime; [PL 2007, c. 476, §19 (AMD).]

C. Having custody of property pursuant to a rental or lease agreement with the owner of the property or a borrower's agreement with a library or museum whereby the property is to be returned to the owner at a specified time and place, the person knowingly fails to comply with the agreed terms concerning return of such property without the consent of the owner, for so lengthy a period beyond the specified time for return as to render the retention or possession or other failure to return a gross deviation from the agreement. For purposes of this paragraph, proof that the person fails to return the property within 5 days of receiving a written demand from the owner, mailed by certified or registered mail or delivered by hand after the expiration of the rental period to the most current address known to the owner, gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 of a gross deviation from the agreement. Violation of this paragraph is a Class D crime; or [PL 2003, c. 510, Pt. C, §4 (AMD).]

D. The person violates paragraph C and the person has 2 or more prior convictions for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime. [PL 2007, c. 476, §20 (AMD).]

[PL 2007, c. 476, §§18-20 (AMD).]

2. As used in this section, "vehicle" means any automobile, airplane, motorcycle, motorboat, snowmobile, any other motor-propelled means of transportation, or any boat or vessel propelled by sail, oar or paddle.

[PL 1975, c. 740, §57 (AMD).]

3. It is a defense to a prosecution under this section that the person reasonably believed that the owner would have consented to the person's conduct had the owner known of it.

[PL 2001, c. 383, §48 (AMD); PL 2001, c. 383, §156 (AFF).]

4.

[PL 2003, c. 510, Pt. C, §5 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§56,57 (AMD). PL 1997, c. 319, §1 (AMD). PL 1999, c. 262, §1 (AMD). PL 2001, c. 383, §§47-49 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D11 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2003, c. 510, §§C4,5 (AMD). PL 2007, c. 476, §§18-20 (AMD).

§361. Affirmative defense of claim of right

It is an affirmative defense to prosecution under this chapter that the defendant acted in good faith under a claim of right to property or services involved, including, in cases of theft of a trade secret, that the defendant rightfully knew the trade secret or that it was available to the defendant from a source other than the owner of the trade secret. [PL 2001, c. 383, §50 (NEW); PL 2001, c. 383, §156 (AFF).]

1.

[PL 2001, c. 383, §50 (RP); PL 2001, c. 383, §156 (AFF).]

2.

[PL 2001, c. 383, §50 (RP); PL 2001, c. 383, §156 (AFF); PL 2003, c. 1, §1 (RP).]

3.

[PL 2001, c. 383, §50 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §58 (AMD). PL 1977, c. 671, §25 (AMD). PL 2001, c. 383, §50 (RPR). PL 2001, c. 383, §156 (AFF). PL 2001, c. 426, §1 (AMD). PL 2003, c. 1, §1 (AMD).

§361-A. Permissible inferences against accused

1. Proof that the defendant was in exclusive possession of property that had recently been taken under circumstances constituting a violation of this chapter, section 405 or of chapter 27 gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the defendant is guilty of the theft or robbery of the property, as the case may be, and proof that the theft or robbery occurred under circumstances constituting a violation of section 401 or 405 also gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the defendant in exclusive possession of property recently so taken is guilty of the burglary or burglary of a motor vehicle, as the case may be.
[PL 2001, c. 667, Pt. D, §12 (AMD); PL 2001, c. 667, Pt. D, §36 (AFF).]

2. Proof that the defendant concealed unpurchased property stored, offered or exposed for sale while the defendant was still on the premises of the place where it was stored, offered or exposed or in a parking lot or public or private way immediately adjacent thereto gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the defendant obtained or exercised unauthorized control over the property with the intent to deprive the owner thereof.
[PL 2001, c. 383, §51 (NEW); PL 2001, c. 383, §156 (AFF).]

3. Proof that a defendant possessed or controlled property of a person who, by reason of physical illness or mental illness or mental defect, including, but not limited to, dementia and other cognitive impairments, is manifestly unable or known by the defendant to be unable to make a reasonable judgment with respect to the disposition of the property or proof that a defendant obtained possession or control of the property by undue influence gives rise to a permissible inference under the Maine

Rules of Evidence, Rule 303 that the defendant obtained or exercised unauthorized control over the property with the intent to deprive the owner of the property. As used in this subsection, "undue influence" has the same meaning as in section 109, subsection 4.
[PL 2013, c. 414, §4 (NEW).]

SECTION HISTORY

PL 2001, c. 383, §51 (NEW). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D12 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2013, c. 414, §4 (AMD).

§362. Classification of theft offenses

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §59 (AMD). PL 1977, c. 510, §§48,49 (AMD). PL 1981, c. 317, §10 (AMD). PL 1985, c. 239, §§1,2 (AMD). PL 1987, c. 12 (AMD). PL 1991, c. 548, §A8 (AMD). PL 1995, c. 224, §§3-5 (AMD). PL 1997, c. 495, §2 (AMD). PL 2001, c. 383, §52 (RP). PL 2001, c. 383, §156 (AFF). PL 2001, c. 389, §§3-5 (AMD). PL 2001, c. 426, §2 (AMD). PL 2003, c. 1, §§2-5 (AMD).

§363. Organized retail theft

1. A person is guilty of organized retail theft if the person commits 2 or more thefts of retail merchandise under this chapter, either as a principal or an accomplice, pursuant to a scheme or course of conduct engaged in by 2 or more persons involving thefts from 2 or more retail stores for the purpose of selling the stolen merchandise or conducting fraudulent returns of the stolen merchandise. Violation of this section is a Class C crime.
[PL 2015, c. 85, §2 (NEW).]

SECTION HISTORY

PL 2015, c. 85, §2 (NEW).

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