

§ 5-36-103. Theft of property.

(a) A person commits theft of property if he or she knowingly;

(1) Takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another person, with the purpose of depriving the owner of the property; or

(2) Obtains the property of another person, by deception or by threat, with the purpose of depriving the owner of the property.

(b) Theft of property is a:

(1) Class B felony if:

(A) The value of the property is two thousand five hundred dollars (\$2,500) or more;

(B) The property is obtained by threat of serious physical injury to any person or destruction of the occupiable structure of another person;

(C) The property is obtained by threat, and the actor stands in a confidential or fiduciary relationship to the person threatened;

(D) The property is:

(i) Anhydrous ammonia in any form; or

(ii) A product containing any percentage of anhydrous ammonia in any form; or

(E) (i) The property is building material obtained from a permitted construction site and the value of the building material is five hundred dollars (\$500.00) or more.

(ii) As used in subdivision (b)(1)(E)(i) of this section:

(a) "Building material" means lumber, a construction tool, a window, a door, copper tubing or wire, or any other material or good used in the construction or rebuilding of a building or a structure; and

(b) "Permitted construction site" means the site of construction, alteration, painting, or repair of a building or a structure for which a building permit has been issued by a city of the first class, a city of the second class, an incorporated town, or a county;

(2) Class C felony if:

(A) The value of the property is less than two thousand five hundred dollars (\$2,500.00) but more than five hundred dollars (\$500.00);

(B) The property is obtained by threat;

(C) The property is a firearm valued at less than two thousand five hundred dollars (\$2,500.00);

(D) The property is a:

(i) Credit card or credit card account number; or

(ii) Debit card or debit card account number; or

(E) The property is livestock and the value of the livestock is in excess of two hundred dollars (\$200.00);

(3)(A) Class D felony if:

(i) The value of the property is five hundred dollars (\$500) or less; and

(ii) The property was unlawfully obtained during a criminal episode.

(B) As used in subdivision (b)(3)(A)(ii) of this section, "criminal

episode" means a series of thefts committed by the same person on three (3) or more occasions within three (3) days; or

(4) Class A misdemeanor if:

(A) The value of the property is five hundred dollars or less; or

(B) The property has inherent, subjective, or idiosyncratic value to its owner or possessor even if the property has not market value or replacement cost.

(c) (1) Upon the proclamation of a state of emergency by the President of the United States or the Governor or upon the declaration of a local emergency by the executive officer of any city or county and for a period of thirty (30) days following that declaration, the penalty for theft of property is enhanced if the property is:

(A) A generator intended for use by:

(i) A public facility;

(ii) A nursing home or hospital;

(iii) An airport;

(iv) A public safety device;

(v) A communication tower or facility;

(vi) A public utility;

(vii) A water system or sewer system;

(viii) A public safety agency; or

(ix) Any other facility or use providing a vital service; or

(B) Any other equipment used in the transmission of electric power or telephone service.

(2) As used in this subsection (c):

(A) "Public safety agency" means an agency of the State of

Arkansas or a functional division of a political subdivision that provides:

- (i) Firefighting and rescue;
- (ii) Natural or man-caused disaster or major emergency response;
- (iii) Law enforcement; or
- (iv) Ambulance or emergency medical services; and

(B) "Public safety device" includes, but is not limited to, a traffic signaling device or a railroad crossing device.

(3) The penalty is enhanced as follows:

(A)(i) The fine for the offense shall be at least five thousand dollars (\$5,000.00) and not more than fifty thousand dollars (\$50,000.00).

(ii) The fine is mandatory; and

(B) The offense is a Class D felony if it would have been a Class A misdemeanor.

History. Acts 1975, No. 280, § 2203 ; No. 360, § 8; 1979, No. 592, § 1; 1983, No. 719, § 1; A.S.A. 1947, § 41-2203; Acts 1987, No. 934, § 3; 1991, No. 712, § 1; 1995, No. 277, § 1; 1997, No. 516, § 1; 2001, No. 157, § 1; No. 1195, § 1; 2003, No. 838, § 1; 2005, No. 1442, § 1; 2007, No. 693, § 1; No. 827, § 39.