

13-1801. Definitions

A. In this chapter, unless the context otherwise requires:

1. "Check" means any check, draft or other negotiable or nonnegotiable instrument of any kind.
2. "Control" or "exercise control" means to act so as to exclude others from using their property except on the defendant's own terms.
3. "Credit" means an express agreement with the drawee for the payment of a check.
4. "Deprive" means to withhold the property interest of another either permanently or for so long a time period that a substantial portion of its economic value or usefulness or enjoyment is lost, to withhold with the intent to restore it only on payment of any reward or other compensation or to transfer or dispose of it so that it is unlikely to be recovered.
5. "Draw" means making, drawing, uttering, preparing, writing or delivering a check.
6. "Funds" means money or credit.
7. "Issue" means to deliver or cause to be delivered a check to a person who thereby acquires a right against the drawer with respect to the check. A person who draws a check with the intent that it be so delivered is deemed to have issued it if the delivery occurs.
8. "Material misrepresentation" means a pretense, promise, representation or statement of present, past or future fact that is fraudulent and that, when used or communicated, is instrumental in causing the wrongful control or transfer of property or services. The pretense may be verbal or it may be a physical act.
9. "Means of transportation" means any vehicle.
10. "Obtain" means to bring about or to receive the transfer of any interest in property, whether to a defendant or to another, or to secure the performance of a service or the possession of a trade secret.
11. "Pass" means, for a payee, holder or bearer of a check that previously has been or purports to have been drawn and issued by another, to deliver a check, for a purpose other than collection, to a third person who by delivery acquires a right with respect to the check.
12. "Property" means any thing of value, tangible or intangible, including trade secrets.
13. "Property of another" means property in which any person other than the defendant has an interest on which the defendant is not privileged to infringe, including property in which the defendant also has an interest, notwithstanding 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 possession of the defendant is not deemed property of another person who has only a security interest in the property, even if legal title is in the creditor pursuant to a security agreement.
14. "Services" includes labor, professional services, transportation, cable television, computer or communication services, gas or electricity services, accommodation in hotels, restaurants or leased premises or elsewhere, admission to exhibitions and use of vehicles or other movable property.
15. "Value" means the fair market value of the property or services at the time of the theft. The value of ferrous metal or nonferrous metal, as defined in section 44-1641, is the average fair market value of the metal in the local area together with the repair or replacement value of any property from which the metal was removed at the time of the theft. Written instruments that do not have a readily ascertained market value have as their value either the face amount of indebtedness less the portion satisfied or the amount of economic loss involved in deprivation of

the instrument, whichever is greater. When property has an undeterminable value the trier of fact shall determine its value and, in reaching its decision, may consider all relevant evidence, including evidence of the property's value to its owner.

B. In determining the classification of the offense, the state may aggregate in the indictment or information amounts taken in thefts committed pursuant to one scheme or course of conduct, whether the amounts were taken from one or several persons.

13-1802. Theft; classification; definitions

A. A person commits theft if, without lawful authority, the person knowingly:

1. Controls property of another with the intent to deprive the other person of such property; or
2. Converts for an unauthorized term or use services or property of another entrusted to the defendant or placed in the defendant's possession for a limited, authorized term or use; or
3. Obtains services or property of another by means of any material misrepresentation with intent to deprive the other person of such property or services; or
4. Comes into control of lost, mislaid or misdelivered property of another under circumstances providing means of inquiry as to the true owner and appropriates such property to the person's own or another's use without reasonable efforts to notify the true owner; or
5. Controls property of another knowing or having reason to know that the property was stolen; or
6. Obtains services known to the defendant to be available only for compensation without paying or an agreement to pay the compensation or diverts another's services to the person's own or another's benefit without authority to do so; or
7. Controls the ferrous metal or nonferrous metal of another with the intent to deprive the other person of the metal; or
8. Controls the ferrous metal or nonferrous metal of another knowing or having reason to know that the metal was stolen; or
9. Purchases within the scope of the ordinary course of business the ferrous metal or nonferrous metal of another person knowing that the metal was stolen.

B. A person commits theft if, without lawful authority, the person knowingly takes control, title, use or management of a vulnerable adult's property while acting in a position of trust and confidence and with the intent to deprive the vulnerable adult of the property. Proof that a person took control, title, use or management of a vulnerable adult's property without adequate consideration to the vulnerable adult may give rise to an inference that the person intended to deprive the vulnerable adult of the property.

C. It is an affirmative defense to any prosecution under subsection B of this section that either:

1. The property was given as a gift consistent with a pattern of gift giving to the person that existed before the adult became vulnerable.
2. The property was given as a gift consistent with a pattern of gift giving to a class of individuals that existed before the adult became vulnerable.
3. The superior court approved the transaction before the transaction occurred.

D. The inferences set forth in section 13-2305 apply to any prosecution under subsection A, paragraph 5 of this section.

E. At the conclusion of any grand jury proceeding, hearing or trial, the court shall preserve any trade secret that is admitted in evidence or any portion of a transcript that contains information relating to the trade secret pursuant to section 44-405.

F. Subsection B of this section does not apply to an agent who is acting within the scope of the agent's duties as or on behalf of a health care institution that is licensed pursuant to title 36, chapter 4 and that provides services to the vulnerable adult.

G. Theft of property or services with a value of twenty-five thousand dollars or more is a class 2 felony. Theft of property or services with a value of four thousand dollars or more but less than twenty-five thousand dollars is a class 3 felony. Theft of property or services with a value of three thousand dollars or more but less than four thousand dollars is a class 4 felony, except that theft of any vehicle engine or transmission is a class 4 felony regardless of value. Theft of property or services with a value of two thousand dollars or more but less than three thousand dollars is a class 5 felony. Theft of property or services with a value of one thousand dollars or more but less than two thousand dollars is a class 6 felony. Theft of any property or services valued at less than one thousand dollars is a class 1 misdemeanor, unless the property is taken from the person of another, is a firearm or is an animal taken for the purpose of animal fighting in violation of section 13-2910.01, in which case the theft is a class 6 felony.

H. A person who is convicted of a violation of subsection A, paragraph 1 or 3 of this section that involved property with a value of one hundred thousand dollars or more is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except pursuant to section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

I. For the purposes of this section, the value of ferrous metal or nonferrous metal includes the amount of any damage to the property of another caused as a result of the theft of the metal.

J. In an action for theft of ferrous metal or nonferrous metal:

1. Unless satisfactorily explained or acquired in the ordinary course of business by an automotive recycler as defined and licensed pursuant to title 28, chapter 10 or by a scrap metal dealer as defined in section 44-1641, proof of possession of scrap metal that was recently stolen may give rise to an inference that the person in possession of the scrap metal was aware of the risk that it had been stolen or in some way participated in its theft.

2. Unless satisfactorily explained or sold in the ordinary course of business by an automotive recycler as defined and licensed pursuant to title 28, chapter 10 or by a scrap metal dealer as defined in section 44-1641, proof of the sale of stolen scrap metal at a price substantially below its fair market value may give rise to an inference that the person selling the scrap metal was aware of the risk that it had been stolen.

K. For the purposes of this section:

1. "Adequate consideration" means the property was given to the person as payment for bona fide goods or services provided by the person and the payment was at a rate that was customary for similar goods or services in the community that the vulnerable adult resided in at the time of the transaction.

2. "Ferrous metal" and "nonferrous metal" have the same meanings prescribed in section 44-1641.

3. "Pattern of gift giving" means two or more gifts that are the same or similar in type and monetary value.

4. "Position of trust and confidence" has the same meaning prescribed in section 46-456.
5. "Property" includes all forms of real property and personal property.
6. "Vulnerable adult" has the same meaning prescribed in section 46-451.

13-1803. Unlawful use of means of transportation; classification

A. A person commits unlawful use of means of transportation if, without intent permanently to deprive, the person either:

1. Knowingly takes unauthorized control over another person's means of transportation.
2. Knowingly is transported or physically located in a vehicle that the person knows or has reason to know is in the unlawful possession of another person pursuant to paragraph 1 or section 13-1814.

B. A violation of subsection A, paragraph 1 of this section is a class 5 felony.

C. A violation of subsection A, paragraph 2 of this section is a class 6 felony.

13-1804. Theft by extortion; classification

A. A person commits theft by extortion by knowingly obtaining or seeking to obtain property or services by means of a threat to do in the future any of the following:

1. Cause physical injury to anyone by means of a deadly weapon or dangerous instrument or cause death or serious physical injury to anyone.
2. Cause physical injury to anyone except as provided in paragraph 1 of this subsection.
3. Cause damage to property.
4. Engage in other conduct constituting an offense.
5. Accuse anyone of a crime or bring criminal charges against anyone.
6. Expose a secret or an asserted fact, whether true or false, tending to subject anyone to hatred, contempt or ridicule or to impair the person's credit or business.
7. Take or withhold action as a public servant or cause a public servant to take or withhold action.
8. Cause anyone to part with any property.
9. Take or withhold action regarding an alleged claim of easement or other right of access to an adjoining property if both of the following occur:

(a) The claimant's property interest is the result of a tax lien purchase or foreclosure pursuant to title 42, chapter 18.

(b) The fair market value of the claimant's property is equal to or less than the amount paid by the claimant for the purchase of the tax lien or foreclosure, including taxes paid after the lien purchase and any costs and attorney fees paid in connection with the lien foreclosure. For the purposes of this subdivision, "fair market value" means the fair market value as defined in section 33-814, subsection A as of the date of the theft.

B. It is an affirmative defense to a prosecution under subsection A, paragraph 5, 6 or 7 that the property obtained by threat of the accusation, exposure, lawsuit or other invocation of official action was lawfully claimed either as:

1. Restitution or indemnification for harm done under circumstances to which the accusation, exposure, lawsuit or other official action relates.
2. Compensation for property that was lawfully obtained or for lawful services.

C. Theft by extortion as defined in subsection A, paragraph 1 is a class 2 felony. Otherwise, theft by extortion is a class 4 felony.

13-1805. Shoplifting; detaining suspect; defense to wrongful detention; civil action by merchant; public services; classification

A. A person commits shoplifting if, while in an establishment in which merchandise is displayed for sale, the person knowingly obtains such goods of another with the intent to deprive that person of such goods by:

1. Removing any of the goods from the immediate display or from any other place within the establishment without paying the purchase price; or
2. Charging the purchase price of the goods to a fictitious person or any person without that person's authority; or
3. Paying less than the purchase price of the goods by some trick or artifice such as altering, removing, substituting or otherwise disfiguring any label, price tag or marking; or
4. Transferring the goods from one container to another; or
5. Concealment.

B. A person is presumed to have the necessary culpable mental state pursuant to subsection A of this section if the person does either of the following:

1. Knowingly conceals on himself or another person unpurchased merchandise of any mercantile establishment while within the mercantile establishment.
2. Uses an artifice, instrument, container, device or other article to facilitate the shoplifting.

C. A merchant, or a merchant's agent or employee, with reasonable cause, may detain on the premises in a reasonable manner and for a reasonable time any person who is suspected of shoplifting as prescribed in subsection A of this section for questioning or summoning a law enforcement officer.

D. Reasonable cause is a defense to a civil or criminal action against a peace officer, a merchant or an agent or employee of the merchant for false arrest, false or unlawful imprisonment or wrongful detention.

E. If a minor engages in conduct that violates subsection A of this section, notwithstanding the fact that the minor may not be held responsible because of the person's minority, any merchant who is injured by the shoplifting of the minor may bring a civil action against the parent or legal guardian of the minor under either section 12-661 or 12-692.

F. Any merchant who is injured by the shoplifting of an adult or emancipated minor in violation of subsection A of this section may bring a civil action against the adult or emancipated minor pursuant to section 12-691.

G. In imposing sentence on a person who is convicted of violating this section, the court may require any person to perform public services designated by the court in addition to or in lieu of any fine that the court might impose.

H. Shoplifting property with a value of two thousand dollars or more, shoplifting property during any continuing criminal episode or shoplifting property if done to promote, further or assist any criminal street gang or criminal syndicate is a class 5 felony. Shoplifting property with a value of one thousand dollars or more but less than two thousand dollars is a class 6 felony. Shoplifting property valued at less than one thousand dollars is a class 1 misdemeanor, unless the property is a firearm in which case the shoplifting is a class 6 felony. For the purposes of this subsection, "continuing criminal episode" means theft of property with a value of one thousand five hundred

dollars or more if committed during at least three separate incidences within a period of ninety consecutive days.

I. A person who in the course of shoplifting uses an artifice, instrument, container, device or other article with the intent to facilitate shoplifting or who commits shoplifting and who has previously committed or been convicted within the past five years of two or more offenses involving burglary, shoplifting, robbery, organized retail theft or theft is guilty of a class 4 felony.

13-1806. Unlawful failure to return rented or leased property; notice; classification

A. A person commits unlawful failure to return rented property if, without notice to and permission of the lessor of the property, the person knowingly fails without good cause to return the property within seventy-two hours after the time provided for return in the rental agreement.

B. If the property is not leased on a periodic tenancy basis, the person who rents out the property shall include the following information, clearly written as part of the terms of the rental agreement:

1. The date and time the property is required to be returned.

2. The maximum penalties if the property is not returned within seventy-two hours of the date and time listed in paragraph 1.

C. If the property is leased on a periodic tenancy basis without a fixed expiration or return date the lessor shall include within the lease clear written notice that the lessee is required to return the property within seventy-two hours from the date and time of the failure to pay any periodic lease payment required by the lease.

D. It is a defense to prosecution under this section that the defendant was physically incapacitated and unable to request or obtain permission of the lessor to retain the property or that the property itself was in such a condition, through no fault of the defendant, that it could not be returned to the lessor within such time.

E. Unlawful failure to return rented or leased property if the property is a motor vehicle is a class 5 felony. In all other cases, unlawful failure to return rented or leased property is a class 1 misdemeanor.

13-1807. Issuing a bad check; violation; classification

A. A person commits issuing a bad check if the person issues or passes a check knowing that the person does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check as well as all other checks outstanding at the time of issuance.

B. Any of the following is a defense to prosecution under this section:

1. The payee or holder knows or has been expressly notified before the drawing of the check or has reason to believe that the drawer did not have on deposit or to the drawer's credit with the drawee sufficient funds to ensure payment on its presentation.

2. The check is postdated and sufficient funds are on deposit with the drawee on such later date for the payment in full of the check.

3. Insufficiency of funds results from an adjustment to the person's account by the credit institution without notice to the person.

C. Nothing in this section prohibits prosecution for any other applicable criminal offense.

D. Except as provided in subsection E of this section, issuing a bad check is a class 1 misdemeanor.

E. Issuing a bad check in an amount of five thousand dollars or more is a class 6 felony if the person fails to pay the full amount of the check, including accrued interest at the rate of twelve per cent per year and any other applicable fees pursuant to this chapter, within sixty days after receiving notice pursuant to section 13-1808.

13-1808. Presumptions relating to issuing a bad check; proof of presentation; nonpayment; protest; notice

A. For the purposes of this chapter, the issuer's knowledge of insufficient funds may be presumed if either:

1. The issuer had no account or a closed account with the bank or other drawee at the time the issuer issued the check.

2. Payment was refused by the bank or other drawee for lack of funds on presentation within thirty days after issue and the issuer failed to pay the holder in full the amount due on the check, together with reasonable costs, within twelve days after receiving notice of that refusal.

B. If a person obtained property or secured performance of services by issuing or passing a check when the issuer did not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check as well as all other checks then outstanding, the person's intent to deprive the owner of property or to avoid payment for service under section 13-1802 may be presumed if either:

1. The issuer had no account or a closed account with the bank or other drawee at the time the issuer issued the check.

2. Payment was refused by the bank or other drawee for lack of funds on presentation within thirty days after issue and the issuer failed to pay the holder in full the amount due on the check, together with reasonable costs, within twelve days after receiving notice of that refusal.

C. Nothing in this section prevents the prosecution from establishing the requisite intent by direct evidence.

D. Notice may be actual notice or notice in writing that is sent by registered or certified mail, return receipt requested, or by regular mail that is supported by an affidavit of service by mailing. Written notice shall be addressed to the issuer at the issuer's address shown on any of the following:

1. The check.

2. The records of the bank or other drawee.

3. The records of the person to whom the check is issued or passed.

E. The form of notice shall be substantially as follows:

Notice of dishonored check

Date: _____

Name of issuer: _____

Street address: _____

City and state: _____

You are, according to law, hereby notified that a check or instrument numbered _____, dated _____, 19_____, drawn on _____ in the amount of _____
(bank or other drawee)

and payable to _____ has been dishonored.

Pursuant to Arizona law, you have twelve days from receipt of this notice to pay or tender to _____ the full amount
(holder)

of the check or instrument, together with all reasonable costs and protest fees of _____, the total amount due being _____. Unless this amount is paid in full within the specified time above, the holder of the check or instrument may turn over the dishonored check or instrument and all other available information relating to this incident to the county attorney for criminal prosecution.

F. If written notice is given in accordance with this section, it is presumed that the notice was received no later than five days after it was sent.

13-1809. Jurisdiction; restitution; fees; deferred prosecution

A. The county attorney may prosecute any violation of section 13-1807. If the defendant is alleged to have committed multiple violations of section 13-1807 within the same county, the county attorney may file a complaint charging all of the violations that have not previously been filed in the justice of the peace precinct in which the greatest number of violations are alleged to have occurred.

B. A person who is charged with an offense under this chapter may make restitution for the bad checks. Restitution shall be made through the prosecutor's office if collection and processing were initiated through that office. Restitution shall include at a minimum the face amount of the check. The fact that restitution to the party injured is made and that any costs of filing with the county attorney are paid is a mitigating factor in any imposition of punishment for any violation of this chapter. On sentencing, the court may require any person convicted under this chapter to make restitution in an amount not to exceed twice the amount of the dishonored check or fifty dollars, whichever is greater, together with all applicable costs and fees. This is in addition to any other punishment imposed under this chapter.

C. A county attorney may collect a fee if the county attorney's office collects and processes a check if the check is issued or passed in a manner that makes the issuance or passing an offense under section 13-1802, 13-1807 or 13-2310 or has been forged under section 13-2002.

D. The county attorney may collect the fee from any person who is a party to an offense described in this section.

E. The amount of the fee for each check shall not exceed:

1. Seventy-five dollars if the face amount of the check does not exceed one hundred dollars.

2. One hundred dollars if the face amount of the check is greater than one hundred dollars but does not exceed three hundred dollars.

3. One hundred twenty-five dollars if the face amount of the check is greater than three hundred dollars but does not exceed one thousand dollars.

4. Twenty per cent of the face amount of the check if the check is greater than one thousand dollars.

F. If the person from whom the fee is collected was a party to the offense of forgery under section 13-2002 and the offense was committed by altering the face amount of the check, the face amount as altered governs for the purpose of determining the amount of the fee prescribed in subsection E of this section.

13-1810. Deferred prosecution of bad check cases

A. Each county attorney may create within his office a deferred prosecution program for bad check cases.

B. The county attorney may refer a bad check case to the bad check deferred prosecution program. This chapter does not limit the power of the county attorney to prosecute bad check complaints.

C. On receipt of a bad check case, the county attorney shall determine if the case is one which is appropriate to be referred to the bad check deferred prosecution program. In determining whether to refer a case to the bad check deferred prosecution program, the county attorney shall consider the following guidelines:

1. The amount of the bad check.
2. If there is a prior criminal record of the defendant.
3. The number of bad check complaints against the defendant previously received by the county attorney.
4. Whether or not there are other bad check complaints currently pending against the defendant.
5. The strength of the evidence of intent to defraud the victim.

D. On referral of a complaint to the bad check deferred prosecution program, a notice of the complaint shall be forwarded by mail to the defendant. The notice shall contain all of the following:

1. The date and amount of the check.
2. The name of the payee.
3. The date before which the defendant must contact the office of the county attorney concerning the complaint.
4. A statement of the penalty for issuance of a bad check.

E. The county attorney may enter into a written agreement with the defendant to defer prosecution on the bad check for a period to be determined by the county attorney, not to exceed one year for misdemeanors, pending all of the following:

1. Completion of the bad check deferred prosecution school program conducted by the county attorney or a private entity under contract with the county attorney.
2. Full restitution being made to the victim of the bad check, as specified in section 13-1809, subsection B.
3. Full payment of fees due under section 13-1809.

F. For each check, monies received from a person pursuant to section 13-1809 shall be applied first to satisfy restitution to the victim. **13-1811. County bad check trust fund; use of fund**

A. The board of supervisors of a county shall establish a county bad check trust fund in the county treasury. The county attorney shall administer the fund under the conditions and for the purposes provided by this section.

B. The county attorney shall transmit to the county treasurer for deposit in the county bad check trust fund any fees that are collected pursuant to sections 13-1809 and 13-1810, any investigation and prosecution costs and any monies that are obtained as a result of a forfeiture and that are recovered for the county through enforcement of section 13-1802, 13-1807, 13-2002 or 13-2310, whether by final judgment, settlement or otherwise.

C. Monies that are collected by the county attorney pursuant to a prosecution under section 13-1802, 13-1807, 13-2002 or 13-2310 and that are not claimed by a victim within one hundred eighty days after the monies are collected shall be disposed of pursuant to section 12-941, except that the monies shall be transmitted to the county treasurer for deposit in the county bad check trust fund.

D. The county attorney shall transmit to the county treasurer for deposit in the county bad check trust fund any grant monies that the county attorney receives for the investigation or prosecution of bad check cases from a political subdivision of this state, any department or agency of the United States or another state, any foundation or any corporation.

E. The monies in the fund shall be used only for the expenditures associated with the investigation, prosecution and deferred prosecution of offenses pursuant to sections 13-1802, 13-1807, 13-2002 and 13-2310.

F. On or before January 15, April 15, July 15 and October 15, the county attorney shall file with the board of supervisors a report for the previous calendar quarter. The report shall set forth the source of all monies for and all expenditures from the fund. The report shall not include any identifying information about specific investigations or prosecutions.

13-1812. Bank records; subpoenas; affidavit of dishonor; affidavit of loss

A. The county attorney may issue a subpoena duces tecum to a financial institution to obtain account records or affidavits of dishonor in an investigation or prosecution of any violation of section 13-1802, 13-1807, 13-2002, 13-2310 or 13-2311. This section does not prevent the county attorney from obtaining a grand jury subpoena duces tecum for any of the suspect's records that are held by a financial institution.

B. The subpoena shall identify the subject of the investigation, the account or accounts under investigation and a specific time period that is relevant to the investigation or prosecution.

C. Account records may include copies of any account agreement between the drawee financial institution and the subject of the investigation, signature cards, monthly statements, correspondence or other records of communication between the financial institution and the subject of the investigation.

D. An authorized representative of a drawee financial institution may certify bank records that are obtained by subpoena if all of the following apply:

1. The bank records are the regular account records that are used and kept by the drawee financial institution.

2. The bank records are made at or near the time the underlying transactions occur in the ordinary course of business.

3. The bank records are made from information that is transmitted by a person who has firsthand knowledge acquired in the course of the drawee financial institution's regular course of business.

E. At a trial for a violation of section 13-1802, 13-1807, 13-2002 or 13-2310, certified bank records that are obtained by subpoena may be introduced in evidence and constitute prima facie evidence of the facts contained in the records.

F. At a trial for a violation of section 13-1802, 13-1807, 13-2002 or 13-2310, an affidavit of dishonor may be introduced in evidence and constitutes prima facie evidence of either:

1. The refusal of a drawee financial institution to pay a check because the drawer had no account or a closed account with the drawee at the time a check was issued or passed.

2. The refusal of a drawee financial institution to pay a check because of insufficiency of the drawer's funds at the time a check was issued or passed.

G. A certification of bank records or an affidavit of dishonor that is acknowledged by any notary public or other officer who is authorized by law to take acknowledgments shall be received in evidence without further proof of its authenticity.

13-1813. Unlawful failure to return a motor vehicle subject to a security interest; notice; classification

A. A person commits unlawful failure to return a motor vehicle subject to a security interest if all of the following apply:

1. The person fails to make a payment on the lien for more than ninety days.

2. The secured creditor notifies the owner in writing, by certified mail return receipt requested, that the owner is ninety days late in making a payment and is in default. The notice shall include the following:

(a) A statement stating:

"You are now in default on loan agreement #_____. If you fail to return the _____ (year of vehicle, make, model) within thirty days you will be subject to criminal prosecution."

(b) The business address and hours of operation for return of the vehicle.

(c) The maximum penalties for unlawful failure to return a motor vehicle subject to a security interest.

3. The owner fails to cure the default within thirty days.

4. With the intent to hinder or prevent the enforcement of the secured creditor's security interest, the owner knowingly fails to do either of the following:

(a) Return the motor vehicle to the secured creditor.

(b) Allow the secured creditor to take possession of the motor vehicle.

B. The original contract creating the security interest in the motor vehicle shall contain the following information:

1. A statement that it is unlawful to fail to return a motor vehicle subject to a security interest within thirty days after receiving notice of default.

2. A statement that notice of default will be mailed to the address on the loan agreement and that it is the responsibility of the owner to keep the listed address current.

3. The maximum penalty for unlawful failure to return a motor vehicle subject to a security interest.

C. It is a defense to prosecution under this section that:

1. The owner was physically incapacitated and unable to request or obtain permission of the secured creditor to retain the motor vehicle.

2. The motor vehicle itself was in a condition, through no intentional fault of the defendant, that it could not be returned to the secured creditor within the specified time.

3. The owner has a security interest pursuant to section 47-2711, subsection C.

D. If a law enforcement agency seizes the vehicle, the secured creditor shall be responsible for all towing, storage and related fees or charges.

E. A vehicle that is not returned pursuant to this section is a stolen vehicle for purposes of section 28-4845.

F. Unlawful failure to return a motor vehicle subject to a property interest is a class 6 felony.

13-1814. Theft of means of transportation; affidavit; classification

A. A person commits theft of means of transportation if, without lawful authority, the person knowingly does one of the following:

1. Controls another person's means of transportation with the intent to permanently deprive the person of the means of transportation.

2. Converts for an unauthorized term or use another person's means of transportation that is entrusted to or placed in the defendant's possession for a limited, authorized term or use.

3. Obtains another person's means of transportation by means of any material misrepresentation with intent to permanently deprive the person of the means of transportation.

4. Comes into control of another person's means of transportation that is lost or misdelivered under circumstances providing means of inquiry as to the true owner and appropriates the means of transportation to the person's own or another's use without reasonable efforts to notify the true owner.

5. Controls another person's means of transportation knowing or having reason to know that the property is stolen.

B. The inferences set forth in section 13-2305 apply to any prosecution under subsection A, paragraph 5 of this section.

C. A person who alleges that a theft of means of transportation has occurred shall attest to that fact by signing an affidavit that is provided by the law enforcement officer or agency when the report is taken in person or by signing and notarizing an affidavit that is provided by the law enforcement agency if the report is taken other than in person. If the affidavit is not taken in person by a law enforcement officer or agency, the person who alleges that a theft of means of transportation has occurred shall mail or deliver the signed and notarized affidavit to the appropriate local law enforcement agency within seven days after reporting the theft. If the appropriate law enforcement agency does not receive the signed and notarized affidavit within thirty days after the initial report, the vehicle information shall be removed from the databases of the national crime information center and the Arizona criminal justice information system. The affidavit provided by the law enforcement agency shall indicate that a person who falsely reports a theft of means of transportation may be subject to criminal prosecution.

D. Theft of means of transportation is a class 3 felony.

13-1815. Unlawful use of power of attorney; classification

A. An agent who holds a principal's power of attorney pursuant to title 14, chapter 5, article 5 and who uses or manages the principal's assets or property with the intent to unlawfully deprive that person of the asset or property is guilty of theft.

B. A violation of this section carries the same classification as theft pursuant to section 13-1802.

13-1816. Unlawful use, possession or removal of theft detection shielding devices; classification; definition

A. A person commits unlawful use of a theft detection shielding device if the person knowingly manufactures, sells, offers for sale or distributes in any way a laminated or coated bag or device unique to and marketed for shielding and intended to shield merchandise from detection by an electronic or magnetic theft alarm sensor.

B. A person commits unlawful possession of a theft detection shielding device if, with the intent to commit theft or shoplifting, the person knowingly possesses any laminated or coated bag or device unique to and marketed for shielding and intended to shield merchandise from detection by an electronic or magnetic theft alarm sensor.

C. A person commits unlawful possession of a theft detection device remover if the person knowingly possesses any tool or device that is designed to allow the removal of any theft detection device from any merchandise and the person intended to use the tool to remove any theft detection device from any merchandise without the permission of the merchant or person who owns or holds the merchandise.

D. A person commits unlawful removal of a theft detection device if the person intentionally removes the device from merchandise before purchasing that merchandise.

E. A violation of this section is a class 6 felony.

F. For the purposes of this section, "merchant" means a person who offers for sale or exchange at least six like items of new and unused personal property in this state.

13-1817. Unlawful possession, use or alteration of a retail sales receipt or universal product code label; classification; definition

A. It is unlawful for a person to intentionally cheat or defraud a merchant by doing any of the following:

1. Possessing at least fifteen fraudulent retail sales receipts or universal product code labels or possessing a device that manufactures fraudulent retail sales receipts or universal product code labels.

2. Possessing, using, uttering, transferring, making, altering, counterfeiting or reproducing a retail sales receipt or a universal product code label.

B. A violation of subsection A, paragraph 1 is a class 5 felony. A violation of subsection A, paragraph 2 is a class 6 felony and, in addition to any other fine authorized by law, the court may impose a fine of not more than three times the value represented on the retail sales receipt or the retail price represented by the original universal product code label.

C. For the purposes of this section, "merchant" means a person who offers for sale or exchange at least six like items of new and unused personal property in this state.

13-1818. Misappropriation of charter school monies; violation; classification

A. A person commits misappropriation of charter school monies if without lawful authority and with an intent to defraud the person converts monies provided by this state under a charter school contract in a manner that does not further the purposes of the charter and is not reasonably related to the business of the charter school.

B. A violation of subsection A is a class 4 felony, except that if the amount of monies converted is twenty-five thousand dollars or more a violation of subsection A is a class 2 felony.

13-1819. Organized retail theft; classification

A. A person commits organized retail theft if the person acting alone or in conjunction with another person does any of the following:

1. Removes merchandise from a retail establishment without paying the purchase price with the intent to resell or trade the merchandise for money or for other value.

2. Uses an artifice, instrument, container, device or other article to facilitate the removal of merchandise from a retail establishment without paying the purchase price.

B. Organized retail theft is a class 4 felony.

13-1820. Theft of trade secrets; classification; definition

A. A person commits theft of trade secrets if, with the intent to deprive or withhold the exclusive control of a trade secret from its owner or with the intent to make any use of a trade secret, the person does any of the following:

1. Takes, transmits, exhibits, conveys, alters, destroys, conceals or uses a trade secret without the permission of the owner.

2. Makes or causes to be made a copy of a trade secret without the permission of the owner.

3. Receives, purchases or possesses a trade secret, knowing that the trade secret has been obtained by means described in paragraph 1 or 2 of this subsection.

B. It is not a defense to a prosecution for theft of trade secrets that the person charged returned or intended to return the trade secret that was stolen, copied or obtained from another.

C. A violation of this section is a class 5 felony.

D. For the purposes of this section, "trade secrets" means information, without regard to form, including a formula, pattern, compilation, program, device, method, technique, plan, drawing, design or process that both:

1. Derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use.

2. Is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.