

DAVIS COUNTY JUSTICE COURT, DAVIS COUNTY, UTAH

**NOTIFICATION OF ENHANCEMENT – CLASS-B-MISDEMEANOR THEFT OFFENSES**

Defendant: \_\_\_\_\_, Case No. \_\_\_\_\_

**IF YOU ARE CONVICTED of one of the “theft-related” offenses checked below, this conviction may be used to make a later “theft-related” offense more serious by raising the classification of that offense. This form provides notification of the current provisions of Utah State Law regarding the enhancement and the minimum/maximum penalties applicable to the different classifications of offenses. It also describes the specific elements of your current charges. It does not notify you of other collateral consequences such as immigration consequences.**

**ELEMENTS (other offenses on back)**

[ ] Retail Theft 76-6-602: A person commits class B misdemeanor retail theft (a) when he knowingly:

(1) Takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of such merchandise; or

(2) Alters, transfers, or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value of any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of such merchandise; or

(3) Transfers any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of such merchandise; or

(4) Under-rings with the intention of depriving the merchant of the retail value of the merchandise; or

(5) Removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use or benefit of such cart; and

(b) the value of the merchandise is less than \$500.

[ ] Theft 76-6-404: A person commits class B misdemeanor theft if: (a) the person obtains or exercises unauthorized control over the property of another; (b) the person does so with a purpose to deprive the owner of the property; and (c) the value of the property stolen is less than \$500.

[ ] Theft by Deception 76-6-405: A person commits class B misdemeanor theft if: (a) the person obtains or exercises unauthorized control over the property of another by deception; (b) the person does so with a purpose to deprive the owner of the property; and (c) the value of the property stolen is less than \$500.

**ENHANCEMENT**

76-6-412(1)(b)(ii): Theft . . . is punishable as a third degree felony if the actor has been twice before convicted of [**a Theft-related offense**] committed within 10 years . . . and at least one of those offenses is a Class A misdemeanor.

(vi) Theft . . . is punishable as a Class A misdemeanor if the actor has been twice before convicted of [**a Theft-related offense**] committed within 10 years . . . . **Theft-related offenses** as used above include: (a) any theft, any robbery, or any burglary with intent to commit theft; (b) any offense under Title 76, Chapter 6, Part 5, Fraud; or (c) any attempt to commit any of the above offenses.

**PENALTIES**

Minimum/Maximum Sentences

Class B Misdemeanor:	0 days to 6 months in jail	AND/OR	\$0 to \$1,950 in fines and surcharges (plus interest)
Class A Misdemeanor:	0 days to 1 year in jail	AND/OR	\$0 to \$4,793 in fines and surcharges (plus interest)
Third Degree Felony:	0 days to 5 years in prison	AND/OR	\$0 to \$9,543 in fines and surcharges (plus interest)

*I understand the foregoing Notification of Enhancement as explained here and as orally explained to me.*

\_\_\_\_\_ (Date)      \_\_\_\_\_ (Defendant's Signature)

**ELEMENTS (“Theft Offenses” continued)**

- [ ] Attempt 76-4-101: A person is guilty of an attempt to commit a crime if he engages in conduct constituting a substantial step toward commission of the crime; and (a) intends to commit the crime, or (b) when causing a particular result is an element of the crime, he acts with an awareness that his conduct is reasonably certain to cause that result. An attempted class B misdemeanor offense is a class C misdemeanor. An attempted class A misdemeanor offense (where the value of the property or services is or exceeds \$500 but is less than \$1,500) is a class B misdemeanor.
- [ ] Wrongful Appropriation 76-6-404.5: A person commits wrongful appropriation if he obtains or exercises unauthorized control over the property of another, without the consent of the owner or legal custodian and with intent to temporarily appropriate, possess, or use the property or to temporarily deprive the owner or legal custodian of possession of the property. Wrongful appropriation is a Class B misdemeanor if the value of the property is or exceeds \$500, but is less than \$1,500. Wrongful appropriation is a Class C misdemeanor if the value of the property is less than \$500.
- [ ] Theft of Motor Vehicle Fuel 76-6-404.7: A person is guilty of Class B misdemeanor theft of motor vehicle fuel who (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for retail sale when motor fuel has been dispensed into: (i) the fuel tank of the motor vehicle, or (ii) any other container that is then removed from the premises by means of the motor vehicle; and (b) commits the act under subsection (a) with the intent to deprive the owner or operator of the premises of the motor fuel without making full payment for the fuel; and (c) the value of the motor vehicle fuel is less than \$500.
- [ ] Theft by Extortion 76-6-406: A person is guilty of class B misdemeanor theft if he obtains or exercises control over the property of another by extortion and with a purpose to deprive him thereof; and the value of the property is less than \$500.
- [ ] Receiving Stolen Property 76-6-408: A person commits Class B misdemeanor theft if (a) he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds or aids in concealing, selling, or withholding the property from the owner, knowing the property to be stolen, intending to deprive the owner of the property; and (b) the value of the property is less than \$500.
- [ ] Theft of lost, mislaid, or mistakenly delivered property 76-6-407: A person commits Class B misdemeanor theft when: (1) he obtains property of another which he 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, without taking reasonable measures to return it to the owner; and (2) he has the purpose to deprive the owner of the property when he obtains the property or at any time prior to taking the measures designated in paragraph (1); and (3) the value of the property is less than \$500.
- [ ] Theft of Services 76-6-409: A person commits theft if (a) he obtains services which he knows are available only for compensation by deception, threat, force, or any other means designed to avoid the due payment for them; or (b) having control over the disposition of services of another, to which he knows he is not entitled, he diverts the services to his own benefit or to the benefit of another who he knows is not entitled to them; and (c) the value of the property is less than \$500.
- [ ] Theft of Utility or Cable Television Services 76-6-409.3: A person is guilty of a class B misdemeanor theft of a utility or cable television service if the person commits any prohibited acts which make gas, electricity, water, sewer, or cable television available to a tenant or occupant, including himself, with intent to avoid due payment to the utility or cable television company; and the value of the service is less than \$500.
- [ ] Theft by Person Having Custody of Property Pursuant to Repair or Rental Agreement 76-6-410: A person is guilty of a Class B misdemeanor theft if (1) having custody of property pursuant to an agreement between himself or another and the owner thereof whereby the actor or another is to perform for compensation a specific service for the owner involving the maintenance, repair, or use of such property, he intentionally uses or operates it, without the consent of the owner, for his own purposes in a manner constituting a gross deviation from the agreed purpose; or (2) having custody of any property pursuant to a rental or lease agreement where it is to be returned in a specified manner or at a specified time, intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement; and the value of the property is less than \$500.
- [ ] Theft of a rental vehicle 76-6-410.5: A person is guilty of a Class B misdemeanor theft of a rental vehicle if without notice to

and permission of the rental company, the renter knowingly fails without good cause to return the vehicle within 72 hours after the time established for the return in the rental agreement; and the value of the rental vehicle is less than \$500.