

CHAPTER 545
Theft and Fraud

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CROSS REFERENCES

See sectional histories for similar State law
 Property defined - see GEN. OFF. 501.01(j)
 Cheating - see GEN. OFF. 517.05
 Falsification - see GEN. OFF. 525.02
 Impersonating a public servant - see GEN. OFF. 525.03

545.01 DEFINITIONS.

As used in this chapter:

- (a) "Deception" means knowingly deceiving another or causing another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act or omission which creates, confirms or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.
- (b) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.
- (c) "Deprive" means to:
 - (1) Withhold property of another permanently, or for such period as to appropriate a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
 - (2) Dispose of property so as to make it unlikely that the owner will recover it;
 - (3) Accept, use or appropriate money, property or services, with purpose not to give proper consideration in return therefor, and without reasonable justification or excuse for not giving proper consideration.

- (d) "Owner" means any person, other than the actor, who is the owner of, or who has possession or control of, or any license or interest in property or services, even though such ownership, possession, control, license or interest is unlawful.
- (e) "Services" include labor, personal services, professional services, public utility services, common carrier services, food, drink, transportation and entertainment.
- (f) "Writing" means any document, letter, memorandum, note, paper, plate, film or other thing having in or upon it any written, typewritten or printed matter, and also means any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.
- (g) "Forge" means to fabricate or create, in whole or in part and by any means any spurious writing, or to make, execute, alter, complete, reproduce or otherwise purport to authenticate any writing, when such writing in fact is not authenticated thereby.
- (h) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver or display.
- (i) "Coin machine" means any mechanical or electronic device designed to do both of the following:
 - (1) Receive a coin or bill, or token made for that purpose;
 - (2) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.
- (j) "Slug" means an object which, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.
- (k) "Theft offense" means any of the following:
 - (1) A violation of Sections 517.05, 545.05, 545.06, 545.08 to 545.18 or Ohio R. C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.31, 2913.32, 2915.06 or 2921.41.
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (k)(1) hereof;
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit or fraud;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (k)(1), (2) or (3) hereof. (ORC 2913.01)

545.02 DETERMINING PROPERTY VALUE IN THEFT OFFENSE.

(a) Where more than one item of property or services is involved in a theft offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property or services involved in the offense.

(b) When a series of offenses under Section 545.05 is committed by the offender in his same employment, capacity or relationship to another, all such offenses shall be tried as a single offense, and the value of the property or services involved for the purpose of determining the value is the aggregate value of all property and services involved in all

offenses in the series. In prosecuting a single offense under this subsection, it is not necessary to separately allege and prove each offense in the series. It is sufficient to allege and prove that the offender, within a given span of time committed one or more theft offenses in his same employment, capacity or relationship to another.

(c) The following criteria shall be used in determining the value of property or services involved in a theft offense:

- (1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing which has intrinsic worth to its owner and which is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, is the amount which would compensate the owner for its loss.
- (2) The value of personal effects and household goods, and of materials, supplies, equipment and fixtures used in the profession, business, trade, occupation or avocation of its owner, which property is not covered under subsection (c)(1) hereof, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing such property with new property of like kind and quality.
- (3) The value of any property, real or personal, not covered under subsections (c)(1) or (2) hereof, and the value of services, is the fair market value of such property or services. As used in this section, "fair market value" is the money consideration which a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.

(d) Without limitation on the evidence which may be used to establish the value of property or services involved in a theft offense:

- (1) When the property involved is personal property held for sale at wholesale or retail, the price at which such property was held for sale is prima-facie evidence of its value.
- (2) When the property involved is a security or commodity traded on an exchange the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense, is prima-facie evidence of the value of such security or commodity.
- (3) When the property involved is livestock, poultry or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of such livestock, poultry or products.
- (4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of such instrument.
- (5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima-facie evidence of the value of the instrument.

- (6) When the property involved is a ticket of admission, ticket for transportation, coupon, token or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services which may be received thereby, is prima-facie evidence of the value of such instrument.
- (7) When the services involved are gas, electricity, water, telephone, transportation, shipping or other services for which the rate is established by law, the duly established rate is prima-facie evidence of the value of such services.
- (8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for such services, either in writing, or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in such notice is prima-facie evidence of the value of such services.
(ORC 2913.61)

545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, the provisions of Sections 545.05 or 545.18 do not apply if the property involved is any of the following:

- (a) A credit card;
- (b) A printed form for a check or other negotiable instrument, which on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and which has not been executed by the drawer or maker or on which the amount is blank;
- (c) A firearm or dangerous ordnance as defined in Section 549.01;
- (d) A motor vehicle as defined in Ohio R. C. 4501.01;
- (e) A motor vehicle identification license plate as prescribed by Ohio R. C. 4503.22, or as prescribed by the applicable law of another state or the United States;
- (f) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R. C. 4505.07;
- (g) A blank form for any license listed in Ohio R. C. 4507.01(A). (ORC 2913.71)

545.04 DETENTION OF SHOPLIFTERS.

A merchant, or his employee or agent, who has probable cause for believing that items offered for sale by a mercantile establishment have been unlawfully taken by a person, may, in order to recover such items without search or undue restraint or in order to cause an arrest to be made by a police officer until a warrant can be obtained, detain such person in a reasonable manner for a reasonable length of time within such mercantile establishment or the immediate vicinity thereof.

Any police officer may, within a reasonable time after such alleged unlawful taking has been committed, arrest without a warrant, any person he has probable cause for believing has committed such unlawful taking in a mercantile establishment. (ORC 2935.041)

545.05 PETTY THEFT.

(a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat.

(b) Whoever violates this section is guilty of petty theft, a misdemeanor of the first degree, if the value of the property or services stolen is less than one hundred fifty dollars (\$150.00), if the property is not listed in Section 545.03 and if the offender has not previously been convicted of a theft offense. (ORC 2913.02)

545.06 UNAUTHORIZED USE OF A VEHICLE.

(a) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(b) This section does not apply to property removed from the State or if possession is kept for more than forty-eight hours.

(c) The following are affirmative defenses to a charge under this section:

- (1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that he was authorized to use or operate the property.
- (2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(d) Whoever violates this section is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree, if the offender has not previously been convicted of a violation of this section, Ohio R. C. 2913.03 or of any other theft offense. (ORC 2913.03)

545.07 ILLEGAL SALE OR POSSESSION OF MASTER VEHICLE KEYS.

(a) No person shall sell or otherwise dispose of a master key designed to fit more than one motor vehicle, knowing or having reasonable cause to believe such key will be used to commit a crime.

No person shall buy, receive or have in his possession a master key designed to fit more than one motor vehicle, for the purpose of using such key to commit a crime. (ORC 4549.042)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree on a first offense. (ORC 4549.99(C))

545.08 UNAUTHORIZED USE OF PROPERTY.

(a) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.

(b) The affirmative defenses contained in Section 545.06(c) are affirmative defenses to a charge under this section.

(c) Whoever violates this section is guilty of unauthorized use of property, a misdemeanor of the fourth degree. (ORC 2913.04)

545.09 PASSING BAD CHECKS.

(a) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored.

(b) For purposes of this section, a person who issues or transfers a check or negotiable instrument is presumed to know that it will be dishonored, if either of the following occurs:

- (1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later.
- (2) The check or instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

(c) Whoever violates this section is guilty of passing bad checks, a misdemeanor of the first degree, if the check or other negotiable instrument is for payment of less than one hundred fifty dollars (\$150.00) and if the offender has not previously been convicted of a theft offense. (ORC 2913.11)

545.10 MISUSE OF CREDIT CARDS.

(a) No person shall do any of the following:

- (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
- (2) Knowingly buy or sell a credit card from or to a person other than the issuer.

(b) No person, with purpose to defraud, shall do any of the following:

- (1) Obtain control over a credit card as security for a debt;
- (2) Obtain property or services by the use of a credit card, knowing or having reasonable cause to believe that such card has expired or been revoked, or was obtained, is retained or is being used in violation of law;
- (3) Furnish property or services upon presentation of a credit card, knowing that such card is being used in violation of law;
- (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that such representation is false.

(c) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.

(d) Whoever violates this section is guilty of misuse of credit cards, a misdemeanor of the first degree if the value of the property or services involved in a violation of subsection (b)(2), (3) or (4) hereof is less than one hundred fifty dollars (\$150.00) and if the offender has not previously been convicted of a theft offense. (ORC 2913.21)

545.11 MAKING OR USING SLUGS.

(a) No person shall do any of the following:

- (1) Insert or deposit a slug in a coin machine, with purpose to defraud;
- (2) Make, possess or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.

(b) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree. (ORC 2913.33)

545.12 TAMPERING WITH COIN MACHINES.

(a) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with or insert any part of an instrument into any coin machine.

(b) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree, if the offender has not previously been convicted of a violation of this section, Ohio R.C. 2911.32 or of any theft offense. (ORC 2911.32)

545.13 DEFRAUDING A LIVERY OR HOSTELRY.

(a) No person, with purpose to defraud or knowing that he is facilitating a fraud, shall do either of the following:

- (1) Hire an aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse or buggy, or keep or operate any of the same which has been hired;
- (2) Engage accommodations at a hotel, motel, inn, campground or other hostelry.

(b) It is prima-facie evidence of purpose to defraud if the offender does any of the following:

- (1) Uses deception to induce the rental agency to furnish the offender with any of the property listed in subsection (a)(1) hereof, or uses deception to induce the hostelry to furnish him with accommodations;
- (2) Hires any of the property named in subsection (a)(1) hereof, or engages accommodations, knowing he is without sufficient means to pay the hire or rental;
- (3) Absconds without paying the hire or rental;
- (4) Knowingly fails to pay the hire or rental as required by the contract of hire or rental, without reasonable excuse for such failure;
- (5) Knowingly fails to return hired property as required by the contract of hire, without reasonable excuse for such failure.

(c) Whoever violates this section is guilty of defrauding a livery or hostelry, a misdemeanor of the first degree, if the offender has not previously been convicted of an offense under this section, Ohio R.C. 2913.41 or of any other theft offense. (ORC 2913.41)

545.14 TAMPERING WITH RECORDS.

(a) No person, knowing he has no privilege to do so, and with purpose to defraud or knowing that he is facilitating a fraud, shall do any of the following:

- (1) Falsify, destroy, remove, conceal, alter, deface or mutilate any writing or record;
- (2) Utter any writing or record, knowing it to have been tampered with as provided in subsection (a)(1) hereof.

(b) Whoever violates this section is guilty of tampering with records, a misdemeanor of the first degree, if the writing or record is not a will unrevoked at the time of the offense or not a record kept by or belonging to a governmental agency. (ORC 2913.42)

545.15 SECURING WRITINGS BY DECEPTION.

(a) No person, by deception, shall cause another to execute any writing which disposes of or encumbers property, or by which a pecuniary obligation is incurred.

(b) Whoever violates this section is guilty of securing writings by deception, a misdemeanor of the first degree, if the value of the property or obligation involved is less than one hundred fifty dollars (\$150.00). (ORC 2913.43)

545.16 PERSONATING AN OFFICER.

(a) No person, with purpose to defraud or knowing that he is facilitating a fraud, or with purpose to induce another to purchase property or services, shall personate a law enforcement officer, or an inspector, investigator or agent of any governmental agency.

(b) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree. (ORC 2913.44)

545.17 DEFRAUDING CREDITORS.

(a) No person, with purpose to defraud one or more of his creditors, shall do any of the following:

- (1) Remove, conceal, destroy, encumber, convey or otherwise deal with any of his property;
- (2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage his affairs or estate, the existence, amount or location of any of his property, or any other information regarding such property which he is legally required to furnish to the fiduciary.

(b) Whoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree. (ORC 2913.45)

545.18 RECEIVING STOLEN PROPERTY.

(a) No person shall receive, retain or dispose of property of another, knowing or having reasonable cause to believe it has been obtained through commission of a theft offense.

(b) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree, if the value of the property involved is less than one hundred fifty dollars (\$150.00), if the property is not listed in Section 545.03 and if the offender has not previously been convicted of a theft offense. (ORC 2913.51)

545.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)