

CHAPTER 4-4

THEFT

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The instructions in this chapter cover the crimes classified as theft under §§18-4-401 through -418; §18-4-602 through -605; §18-4-701, C.R.S.

4-4:01 THEFT (INTENT TO PERMANENTLY DEPRIVE)

The elements of the crime of theft are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly
 - a. obtained or exercised control over
 - b. anything of value
 - c. which was the property of another person,
 - d. [without authorization] [by threat or deception], and
4. with intent to permanently deprive the other person of the use or benefit of the thing of value, and
5. [the value of the thing involved is [less than five hundred dollars] [five hundred dollars or more, but less than one thousand dollars] [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more].]

[the value of the thing involved is [less than one hundred dollars] [one hundred dollars or more, but less than five hundred dollars] [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more].]

-or-

[the aggregate value of the things involved is [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more]

a. as a result of the defendant having committed theft two or more times

b. within a period of six months.]

-or-

[the aggregate value of the things involved is [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more]

a. as a result of the defendant having committed theft two or more times

b. within a period of six months.]

-or-

[the thing of value was taken

a. from the person of another

b. by means other than the use of force, threat, or intimidation.]

6. [without the affirmative defense in instruction number ____ .]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of theft.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of theft.

NOTES ON USE

The values changed for offenses committed on or after July 1, 2007.

Where there is conflicting evidence on the issue of value, a special verdict form may be used with this instruction, or a lesser included offense instruction can be used.

Delete inapplicable bracketed material. When this instruction is used, the definitions of "knowingly" and "with intent" must be given. *People v. Smith*, 121 P.2d 243 (Colo. App. 2005)(proximity requirement in theft from a person analyzed).

SOURCE & AUTHORITY

§18-4-401(1)(a), C.R.S.

COLJI-Crim. No. 16:01 (1993).

Auman v. People, 109 P.3d 647 (Colo. 2005)(knowingly).

CLASSIFICATION OF OFFENSE

F3, if value equal or greater than \$20,000

F4, if value \$1,000 to \$15,000

M1, if value \$500 to 1,000

M2, if value is less than \$500

F5, if from the person of another

For crimes committed before July 1, 2007:

F3, if value equal or greater than \$15,000

F4, if value \$500 to \$15,000

M2, if value \$100 to \$500

M3, if value is less than \$500

F5, if from the person of another

4:02 THEFT (USE, CONCEAL OR ABANDON IN SUCH MANNER AS TO PERMANENTLY DEPRIVE)

The elements of the crime of theft are:

1. That the defendant,

2. in the State of Colorado, at or about the date and place charged,

3. knowingly

- a. obtained or exercised control over
- b. anything of value
- c. which was the property of another person,
- d. [without authorization] [by threat or deception], and
- e. used, concealed, or abandoned the thing of value
- f. in such a manner as to permanently deprive the other person of its use or benefit, and

4. [the value of the thing involved is [less than five hundred dollars] [five hundred dollars or more, but less than one thousand dollars] [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more].]

[the value of the thing involved is [less than one hundred dollars] [one hundred dollars or more, but less than five hundred dollars] [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more].]

-or-

[the aggregate value of the things involved is [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more]

a. as a result of the defendant having committed theft two or more times

b. within a period of six months.]

[the aggregate value of the things involved is [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more]

a. as a result of the defendant having committed theft two or more times

b. within a period of six months.]

-or-

[the thing of value was taken

a. from the person of another

b. by means other than the use of force, threat, or intimidation.]

5. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of theft.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of theft.

NOTES ON USE

The values changed for offenses committed on or after July 1, 2007.

Where there is conflicting evidence on the issue of value, a special verdict form may be used with this instruction, or a lesser included offense instruction can be used.

Delete inapplicable bracketed material. When this instruction is used, the definition of "knowingly" must be given. *People v. Smith*, 121 P.2d 243 (Colo. App. 2005)(proximity requirement in theft from a person analyzed).

SOURCE & AUTHORITY

§18-4-401(1)(a), C.R.S.

COLJI-Crim. No. 16:01 (1993).

Auman v. People, 109 P.3d 647 (Colo. 2005)(knowingly).

CLASSIFICATION OF OFFENSE

F3, if value equal or greater than \$20,000

F4, if value \$1,000 to \$15,000

M1, if value \$500 to 1,000

M2, if value is less than \$500

For crimes committed before July 1, 2007:

F3, if value equal or greater than \$15,000

F4, if value \$500 to \$15,000

M2, if value \$100 to \$500

M3, if value is less than \$500

F5, if from the person of another

4-4:03 THEFT (USE, CONCEAL OR ABANDON WITH INTENT TO PERMANENTLY DEPRIVE)

The elements of the crime of theft are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly
 - a. obtained or exercised control over
 - b. anything of value

c. which was the property of another person,

d. [without authorization] [by threat or deception], and

4. used, concealed, or abandoned the thing of value with intent that such use, concealment or abandonment would permanently deprive the other person of the use or benefit of the thing of value,

5. [the value of the thing involved is [less than five hundred dollars] [five hundred dollars or more, but less than one thousand dollars] [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more].]

-or-

[the value of the thing involved is [less than one hundred dollars] [one hundred dollars or more, but less than five hundred dollars] [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more].]

-or-

[the aggregate value of the things involved is [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more]

a. as a result of the defendant having committed theft two or more times

b. within a period of six months.]

[the aggregate value of the things involved is [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more]

a. as a result of the defendant having committed theft two or more times

b. within a period of six months.]

-or-

[the thing of value was taken

a. from the person of another

b. by means other than the use of force, threat, or intimidation.]

6. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of theft.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of theft.

NOTES ON USE

The values changed for offenses committed on or after July 1, 2007.

Where there is conflicting evidence on the issue of value, a special verdict form may be used with this instruction, or a lesser included offense instruction can be used.

Delete inapplicable bracketed material. When this instruction is used, the definitions of "knowingly" and "with intent" must be given. *People v. Smith*, 121 P.3d 243 (Colo. App. 2005)(proximity requirement in theft from a person analyzed).

SOURCE & AUTHORITY

§18-4-401(1)(a), C.R.S.

COLJI-Crim. No. 16:01 (1993).

Auman v. People, 109 P.3d 647 (Colo. 2005)(knowingly).

CLASSIFICATION OF OFFENSE

F3, if value equal or greater than \$20,000

F4, if value \$1,000 to \$15,000

M1, if value \$500 to 1,000

M2, if value is less than \$500

For crimes committed before July 1, 2007:

F3, if value equal or greater than \$15,000

F4, if value \$500 to \$15,000

M2, if value \$100 to \$500

M3, if value is less than \$500

F5, if from the person of another

4-4:04 THEFT (DEMAND CONSIDERATION)

The elements of the crime of theft are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly
 - a. obtained or exercised control over
 - b. anything of value
 - c. which was the property of another person,
 - d. [without authorization] [by threat or deception], and
 - e. demanded any consideration to which he was not legally entitled as a condition of restoring the thing of value to the other person, and

4. the value of the thing involved is [less than five hundred dollars] [five hundred dollars or more, but less than one thousand dollars] [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more].

[the value of the thing involved is [less than one hundred dollars] [one hundred dollars or more, but less than five hundred dollars] [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more].]

-or-

[the aggregate value of the things involved is [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more]

a. as a result of the defendant having committed theft two or more times

b. within a period of six months.]

-or-

[the aggregate value of the things involved is [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more]

a. as a result of the defendant having committed theft two or more times

b. within a period of six months.]

-or-

[the thing of value was taken

a. from the person of another

b. by means other than the use of force, threat, or intimidation.]

5. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of theft.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of theft.

NOTES ON USE

The values changed for offenses committed on or after July 1, 2007.

Where there is conflicting evidence on the issue of value, a special verdict form may be used with this instruction, or a lesser included offense instruction can be used.

Delete inapplicable bracketed material. When this instruction is used, the definition of "knowingly" must be given. *People v. Smith*, 121 P.3d 243 (Colo. App. 2005)(proximity requirement in theft from a person analyzed).

SOURCE & AUTHORITY

§18-4-401(1)(a), C.R.S.

COLJI-Crim. No. 16:01 (1993).

Auman v. People, 109 P.3d 647 (Colo. 2005)(knowingly).

CLASSIFICATION OF OFFENSE

F3, if value equal or greater than \$20,000

F4, if value \$1,000 to \$15,000

M1, if value \$500 to 1,000

M2, if value is less than \$500

For crimes committed before July 1, 2007:

F3, if value equal or greater than \$15,000

F4, if value \$500 to \$15,000

M2, if value \$100 to \$500

M3, if value is less than \$500

F5, if from the person of another

**4-4:05 THEFT OF RENTAL PROPERTY (OBTAINED BY THREAT
OR DECEPTION)**

The elements of the crime of theft of rental property are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly obtained temporary use of personal property belonging to another person which is available only for hire,
4. [by means of threat or deception] [knowing that such use was without the consent of the person providing the personal property], and
5. [the value of the property involved was [less than five hundred dollars] [five hundred dollars or more, but less than one thousand dollars] [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more].]

[the value of the property involved was [less than one hundred dollars] [one hundred dollars or more, but less than five hundred dollars] [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more].]

-or-

[the aggregate value of the things involved is [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more]

a. as a result of the defendant having committed theft of rental property two or more times

b. within a period of six months].

[the aggregate value of the things involved is [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more]

a. as a result of the defendant having committed theft of rental property two or more times

b. within a period of six months].

6. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of theft of rental property.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of theft of rental property.

NOTES ON USE

The values changed for offenses committed on or after July 1, 2007.

Delete inapplicable bracketed material. When there is disputed evidence as to value, the special verdict form or a lesser included offense instruction should be used.

The definition of "knowingly" should be given with this instruction.

SOURCE & AUTHORITY

§18-4-402(1)(a),(2),(3),(4) and (5), C.R.S.
COLJI-Crim. No. 16:03 (1993).

CLASSIFICATION OF OFFENSE

F3, if value equal or greater than \$20,000

F5, if value \$1,000 to \$20,000

M1, if value \$500 to \$1,000

M2, if value is less than \$500

For crimes committed before July 1, 2007:

F3, if value equal or greater than \$15,000

F4, if value \$500 to \$15,000

M2, if value \$100 to \$500

M3, if value is less than \$500

4-4:06 THEFT OF RENTAL PROPERTY (LAWFULLY OBTAINED)

The elements of the crime of theft of rental property are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. having lawfully obtained possession of rental property for temporary use,
4. knowingly,
5. failed [to reveal the whereabouts of] [to return] said property to the owner of the property, or to the owner's representative, or to the person from whom he had received it,

6. within seventy-two hours after the time at which he had agreed to return it, and

7. [the value of the property involved was [less than five hundred dollars] [five hundred dollars or more, but less than one thousand dollars] [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more].]

-or-

6. [the value of the property involved was [less than one hundred dollars] [one hundred dollars or more, but less than five hundred dollars] [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more].]

-or-

7. [the aggregate value of the things involved is [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more]

a. as a result of the defendant having committed theft of rental property two or more times

b. within a period of six months.]

7. [the aggregate value of the things involved is [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more]

a. as a result of the defendant having committed theft of rental property two or more times

b. within a period of six months.]

8. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of theft of rental property.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of theft of rental property.

NOTES ON USE

The values changed for offenses committed on or after July 1, 2007.

Delete inapplicable bracketed material. When there is disputed evidence as to value, the special verdict form or a lesser included offense instruction should be used.

The definition of "knowingly" should be given with this instruction.

SOURCE & AUTHORITY

§18-4-402(1)(b),(2),(3),(4) and (5), C.R.S.

COLJI-Crim. No. 16:04 (1983).

CLASSIFICATION OF OFFENSE

F3, if value equal or greater than \$20,000

F5, if value \$1,000 to \$20,000

M1, if value \$500 to \$1,000

M2, if value is less than \$500

For crimes committed before July 1, 2007:

F3, if value equal or greater than \$15,000

F4, if value \$500 to \$15,000

M2, if value \$100 to \$500

M3, if value is less than \$500

4-4:07 AGGRAVATED MOTOR VEHICLE THEFT - FIRST DEGREE

The elements of the crime of aggravated motor vehicle theft in the first degree are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. obtained or exercised control over a motor vehicle,
5. belonging to another person,
6. [without authorization] [by threat or deception],
and
7. [the value of the motor vehicle involved was [twenty thousand dollars or less] [more than twenty thousand dollars], and]

-or-

[the value of the motor vehicle involved was [fifteen thousand dollars or less] [more than fifteen thousand dollars], and]

8. the defendant

[retained possession or control of the motor vehicle for more than twenty-four hours]

[attempted to alter or disguise, or did alter or disguise the appearance of the motor vehicle]

[attempted to alter or remove, or did alter or remove the vehicle identification number]

[used the motor vehicle in the commission of another crime other than a traffic offense],

[caused five hundred dollars or more property damage, including but not limited to property damage to the motor vehicle involved, in the course of obtaining control over or in the exercise of control of the motor vehicle]

[caused bodily injury to another person while in the exercise of control of the motor vehicle]

[removed the motor vehicle from the state of Colorado for a period of time in excess of twelve hours]

[unlawfully attached or otherwise displayed in or upon the motor vehicle license plates other than those officially issued for the motor vehicle].

9. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of aggravated motor vehicle theft in the first degree.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of aggravated motor vehicle theft in the first degree.

NOTES ON USE

The values changed for offenses committed on or after July 1, 2007.

Delete inapplicable bracketed material. When using this instruction, the applicable definitions of "knowingly", "motor vehicle" and "vehicle identification number" must be given. When there is disputed evidence as to value, a Special Verdict form or lesser included offense instruction should be used.

SOURCE & AUTHORITY

§18-4-409(2) and (3), C.R.S.

COLJI-Crim. No. 16:06 (1983).

People v. Marquez, 107 P.3d 993 (Colo. App. 2004)(Re: culpable mental states).

CLASSIFICATION OF OFFENSE

F3, if 2 prior convictions or value greater than \$15,000

F4, if value is equal to or less than \$15,000

F4, if value is equal to or less than \$20,000

F3, if 2 prior convictions or value greater than \$20,000

4-4:08 AGGRAVATED MOTOR VEHICLE THEFT - SECOND DEGREE

The elements of the crime of aggravated motor vehicle theft in the second degree are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. obtained or exercised control over a motor vehicle,
5. belonging to another person,
6. [without authorization] [by threat or deception], and
7. [the value of the motor vehicle was [less than one thousand dollars] [one thousand dollars or more but less than twenty thousand dollars] [twenty thousand dollars or more].]

-or-

[the value of the motor vehicle was [less than five hundred dollars] [five hundred dollars or more but less than fifteen thousand dollars] [fifteen thousand dollars or more].]

8. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of aggravated motor vehicle theft in the second degree.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of aggravated motor vehicle theft in the second degree.

NOTES ON USE

The values changed for offenses committed on or after July 1, 2007.

Delete inapplicable bracketed material. When using this instruction, the definitions of "knowingly" and "motor vehicle" must be given. When there is disputed evidence as to value, then a Special Verdict form or a lesser included offense instruction must be given.

SOURCE & AUTHORITY

§18-4-409(4), C.R.S.

COLJI-Crim. No. 16:07 (1983).

CLASSIFICATION OF OFFENSE

F5, if value equal or more than \$20,000

F6, if value is \$1,000 to \$20,000

M1, if value is less than \$1,000

For crimes committed before July 1, 2007:

F5, if value equal or more than \$15,000

F6, if value is \$500 to \$15,000

M2, if value is less than \$500

4-4:09 THEFT BY RECEIVING

The elements of the crime of theft by receiving are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. [received] [retained] [loaned money by pawn or pledge on] [disposed of] anything of value belonging to another person,
4. knowing or believing that thing of value to be stolen,
5. with intent to permanently deprive the lawful owner of the use or benefit of the thing of value, and
6. [the value of the thing involved is [less than five hundred dollars] [five hundred dollars or more, but less than one thousand dollars] [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more].]

-or-

[the value of the thing involved is [less than one hundred dollars] [one hundred dollars or more, but less than five hundred dollars] [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more].]

-or-

[[the aggregate value of the thing or things involved is one thousand dollars or more, and]

-or-

6. [the aggregate value of the thing or things involved is five hundred dollars or more, and]

7. the defendant is engaged in the business of buying, selling or otherwise disposing of stolen goods for a profit.]

-or-

6. [the aggregate value of the things involved is [one thousand dollars or more, but less than twenty thousand dollars] [twenty thousand dollars or more]

a. as a result of the defendant having committed theft by receiving two or more times

b. within a period of six months.]

-or-

[the aggregate value of the things involved is [five hundred dollars or more, but less than fifteen thousand dollars] [fifteen thousand dollars or more]

a. as a result of the defendant having committed theft by receiving two or more times

b. within a period of six months.]

[7. or 8. without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of theft by receiving.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of theft by receiving.

NOTES ON USE

The values changed for offenses committed on or after July 1, 2007.

Delete inapplicable bracketed material. When there is disputed evidence as to value, a Special Verdict form or a lesser included offense instruction must be used. The definitions of "knowingly" and "with intent" must be given with this instruction.

SOURCE & AUTHORITY

§§18-4-410(1) through (6), C.R.S.

COLJI-Crim. No. 16:08 (1993).

CLASSIFICATION OF OFFENSE

F3, if value is \$20,000 or more

F4, if value is \$1,000 to \$20,000

M1, if value is \$500 to \$1,000

M2, if value less than \$50

For crimes committed before July 1, 2007:

F3, if value is \$15,000 or more

F4, if value is \$500 to \$15,000

M2, if value is \$100 to \$500

M3, if value less than \$100

4-4:10 THEFT OF MEDICAL RECORDS

The elements of the crime of theft of medical records are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. [obtained [a medical record] [medical information],
5. knowing (s)he did not have proper authorization,
6. with intent to appropriate the [medical record] [medical information],

7. to his own use or to the use of another.]

-or-

4. [knowingly [stole] [disclosed to an unauthorized person],

5. [a medical record] [medical information].]

-or-

4. [knowing (s)he did not have authority,

5. made or caused to be made,

6. a copy of [a medical record] [medical information].]

[6., 7. or 8. without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of theft of medical records.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of theft of medical records.

NOTES ON USE

Delete inapplicable bracketed material.

When this instruction is used, definitions of "knowingly", "with intent", "copy", "medical record", "medical information", "proper authorization" should be given where appropriate.

SOURCE & AUTHORITY

§18-4-412, C.R.S.

COLJI-Crim. No. 16:10 (1983).

CLASSIFICATION OF OFFENSE

F6

4-4:11 THEFT OF TRADE SECRETS

The elements of the crime of theft of trade secrets are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. with intent to [deprive or withhold from the owner thereof the control of a trade secret] [appropriate a trade secret to his own use, or to the use of another],
4. [stole] [disclosed to an unauthorized person] [without authority, made, or caused to be made a copy of an article representing] a trade secret.
5. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of theft of trade secrets.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of theft of trade secrets.

NOTES ON USE

Delete inapplicable bracketed material. When this instruction is used, the applicable definitions of "trade secret" and "with intent" must be given.

SOURCE & AUTHORITY

§18-4-408, C.R.S.

COLJI-Crim. No. 16:05 (1983).

CLASSIFICATION OF OFFENSE

F4 (Second or subsequent offense within 5 years)

M1

4-4:12 UNLAWFUL ACTS-THEFT DETECTION DEVICES

The elements of the crime of unlawful acts - theft detection devices are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. [knowingly manufactured, distributed or sold a theft detection shielding device or theft detection deactivation device,
4. with the knowledge that some person intends to use the device in the commission of an offense involving theft.]

-or-

3. [knowingly possessed a theft detection shielding device or a theft detection deactivating device,
4. with the intent to use the device possessed or with the knowledge that some person intends to use the device possessed in the commission of an offense involving theft.]

-or-

3. [knowingly deactivated or removed a theft detection device or any component thereof in a store or mercantile establishment without authorization prior to purchase,]

[4 or 5. without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of unlawful acts - theft detection devices.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty unlawful acts - theft detection devices.

NOTES ON USE

Delete inapplicable bracketed material.

When this instruction is used, the applicable definitions of "knowingly", "with intent", "theft detection deactivating device", "theft detection device", "theft detection shielding device" and the elements of "theft" must be given.

SOURCE & AUTHORITY

§ 18-4-417, C.R.S.

CLASSIFICATION OF OFFENSE

M1

4-4:13 FUEL PIRACY

The elements of the crime of fuel piracy are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,

3. knowingly left the premises of an establishment that offers fuel for sale, after dispensing fuel and knowingly failed to pay for such fuel,

4. the value of the fuel was [less than one hundred dollars] [one hundred dollars or more but less than \$500.]

5. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of fuel piracy.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty fuel piracy.

NOTES ON USE

Delete inapplicable bracketed material.

The definition of "knowingly" should be given with this instruction. When there is a dispute as to the value of the fuel, a Special Verdict form or lesser included offense instruction must be used.

SOURCE & AUTHORITY

§18-4-418, C.R.S.

COLJI-Crim. No. (1983).

CLASSIFICATION OF OFFENSE

M2, if value \$100 up to \$500

M3, if value less than \$100

4-4:14 THEFT OF SOUND RECORDINGS-UNLAWFUL TRANSFER FOR SALE

The elements of the crime of unlawful transfer for sale are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly and without consent of the owner,
4. transferred,
5. any copyrighted sounds recorded on a [phonograph record] [video disc] [wire] [tape] [film] [other article] on which sounds are recorded,
6. [with intent to sell the article onto which such sounds were transferred [with intent to cause the article onto which such sounds were transferred to be [sold for profit] [to be used to promote the sale of any product]
7. [without the affirmative defense in instruction number ____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of unlawful transfer for sale.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of unlawful transfer for sale.

NOTES ON USE

Delete inapplicable bracketed material.

When this instruction is used, the applicable definitions of "knowingly", "intent", "owner" and "copyright" must be given.

SOURCE & AUTHORITY

§ 18-4-602, C.R.S.

COLJI-Crim. No. 16:11 (1983).

CLASSIFICATION OF OFFENSE

F6

4-4:15 THEFT OF SOUND RECORDINGS-TRAFFICKING

The elements of the crime of unlawfully trafficking in unlawfully transferred articles are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly or who reasonably should have had such knowledge,
4. [advertised] [offered for sale or resale] [sold or resold] [possessed for sale or resale] any article onto which copyrighted sounds have been transferred without the consent of the owner.
5. [without the affirmative defense in instruction number.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of trafficking in unlawfully transferred articles.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of trafficking in unlawfully transferred articles.

NOTES ON USE

When this instruction is used, the applicable definitions of "knowingly," "owner" and "copyright" must be given.

SOURCE & AUTHORITY

§18-4-603, C.R.S.

COLJI-Crim. No. 16:12 (1983).

CLASSIFICATION OF OFFENSE

M3

4-4:16 THEFT OF SOUND RECORDINGS-DEALING IN UNLAWFULLY PACKAGED ARTICLE

The elements of the crime of dealing in unlawfully packaged recorded articles are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly [advertised or offered for sale or resale] [sold or resold] [possessed for advertisement, sale or resale] any copyrighted [phonograph record] [disc] [wire] [tape] [film] [other article] on which sounds were recorded, and
4. the outside cover, box, or jacket of the article did not clearly and conspicuously disclose the actual name and address of the manufacturer and the name of the actual performer or group.
5. [without the affirmative defense in instruction number.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a

reasonable doubt, you should find the defendant guilty of dealing in unlawfully packaged recorded articles.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of dealing in unlawfully packaged recorded articles.

NOTES ON USE

Delete inapplicable bracketed material.

The definitions of "copyright", "knowingly" and "article shall be given.

SOURCE & AUTHORITY

§18-4-604, C.R.S.

§18-1-503 (2), C.R.S.

COLJI-Crim. No. 16:13 (1983).

CLASSIFICATION OF OFFENSE

M1

4-4:17 UNLAWFUL RECORDING OF A LIVE PERFORMANCE

The elements of the crime of unlawful recording of a live performance are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly recorded or caused to be recorded a live performance on a phonograph record, compact disc, video disc, wire, tape, film or other article on which a live performance is recorded,
4. without consent of the owner, and,

5. with the intent [to sell the article on which the live performance is recorded for a profit][to cause the article on which the live performance is recorded to be sold for a profit or to be used to promote the sale of any product.]

6. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of unlawful recording of a live performance.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty unlawful recording of a live performance.

NOTES ON USE

Delete inapplicable bracketed material.

The definitions of "knowingly", "with intent" and "live performance" must be given with this instruction. "Live performance" means a recitation, rendering, or playing of a series of images, musical, spoken or other sounds or a combination of images or sounds in an audible sequence. § 18-4-604.3(2) and (3), C.R.S. state how ownership may be proven.

SOURCE & AUTHORITY

§18-4-604.3, C.R.S.

COLJI-Crim. No. (1983).

CLASSIFICATION OF OFFENSE

M1

**4-4:18 TRAFFICKING IN UNLAWFULLY RECORDED LIVE
PERFORMANCES**

The elements of the crime of trafficking in unlawfully recorded live performances are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knew or reasonably should have known that an article has been recorded in violation of §18-4-604.3, C.R.S. (2007).
4. knowingly advertised, offered for sale or resale, sold or resold, distributed, or possessed for advertisement, sale, resale or distribution,
5. the unlawfully recorded live performance article,
6. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of trafficking in unlawfully recorded live performances

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty trafficking in unlawfully recorded live performances

NOTES ON USE

Delete inapplicable bracketed material. The elements/instruction for § 18-4-604.3 should be given with this instruction including all applicable definitions for that instruction. The definition of "knowingly" should be given with this instruction.

SOURCE & AUTHORITY

§18-4-604.3, C.R.S.

COLJI-Crim. No. (1983).

CLASSIFICATION OF OFFENSE

M1

4-4:19 THEFT OF CABLE SERVICES

The elements of the crime of theft of cable service are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly
4. [obtained cable service from a cable operator by trick, artifice, deception, use of an unauthorized device or decoder, or other means without authorization or with the intent to deprive such cable operator of lawful compensation for the services rendered;]

- or -

[made or maintained, without authority from or payment to a cable operator, a connection or connections, whether physical, electrical, mechanical, acoustical, or otherwise with any cable, wire, component, or other device used for the distribution of cable services;]

- or -

[modified, altered, or maintained a modification or alteration to a device installed or capable of being installed with the authorization of a cable operator, which modification or alteration is for the purpose of intercepting or receiving cable service carried by such

cable operator without authority from or payment to such cable operator;

- or -

[possessed without authority, with the intent to receive cable operator services without authorization from or payment to a cable operator, a device or printed circuit board designed in whole or in part to facilitate the following acts:

a. to receive cable services offered for sale over a cable system; or

b. to perform or facilitate the performance of any act set forth in paragraphs (a) to (c) of 18-4-701(2), C.R.S.;

- or -

[manufactured, imported into this state, distributed, sold, leased, or offered or advertised for sale or lease, with the intent to receive cable services or with the intent to promote the reception of cable services without payment or authorization from a cable operator, any device, printed circuit board, or plan or kit for a device or printed circuit board designed in whole or in part to facilitate the following acts:

a. to receive any cable services offered for sale over a cable system; or

b. to perform or facilitate the performance of any act set forth in paragraphs (a) to (c) of 18-4-701(2), C.R.S.;

- or -

[failed to return or surrender equipment used to receive cable service and provided by a cable operator, after such service has been terminated for any reason]

5. [without the affirmative defense in instruction number ____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a

reasonable doubt, you should find the defendant guilty of theft of cable services.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty theft of cable services.

NOTES ON USE

The applicable definitions of 'knowingly', "with intent" "cable operator", "cable service", and "cable system" must be given with this instruction. "Cable operator" means any person who: (I) provides cable service over a cable system in which such person directly or through one or more affiliates owns a significant interest; or (II) controls or is responsible for the management and operation of such cable system through any arrangement. "Cable service" means: (I) the one-way transmission to subscribers of a video programming service; (II) two-way interactive services delivered over a cable system; (III) subscriber interaction, if any, that is required for the selection or use of such video programming or interactive service. "Cable system" means a facility consisting of a set of closed transmission paths and associated signal operation, reception, and control equipment that is designed to provide cable service.

SOURCE AND AUTHORITY

§18-4-701, C.R.S.

CLASSIFICATION OF OFFENSE

M2

4-4:20 INTERROGATORY FORM-THEFT VALUE

If you find the defendant not guilty of (insert theft offense), you should disregard this instruction and you should sign the not guilty form and do not answer the following questions.

If, however, you find the defendant guilty of (insert theft offense), you should sign the guilty verdict form, and then answer the following question:

What is the value of the property taken by the defendant?

Less than \$500 [\$100].

\$500 [\$100] or more, but less than \$1,000 [\$500].

\$1,000 [\$500] or more, but less than \$20,000 [\$15,000].

\$20,000 [\$15,000] or more.

It is the prosecution's burden to prove value of the beyond a reasonable doubt.

After considering all the evidence, if you find the prosecution has proven the amount of the value beyond a reasonable doubt, you should indicate the amount on the verdict form that has been provided. This finding must be unanimous.

After considering all the evidence, if you do not find the prosecution has proven beyond a reasonable doubt the value, you should indicate under one hundred dollars on the verdict form that has been provided.

NOTES ON USE

The values changed for offenses committed on or after July 1, 2007.

The bracketed parenthesis reflects the statutes pre July 1, 2007. This interrogatory should be used only when there is sufficient evidence to support a finding beyond a reasonable doubt that there was a dispute as to value in the case. The value amounts may need to be changed depending upon the offense.

4-4:21 SPECIAL VERDICT FORM-Theft Value

DISTRICT COURT, [CITY AND] COUNTY OF _____ , STATE OF COLORADO

Case No. * Div.

JURY VERDICT, Count *
Including Special Verdict for Value

PEOPLE OF THE STATE OF COLORADO,
Plaintiffs,

v.

*
Defendant.

[fn*]I. We, the jury, find the Defendant, *, NOT GUILTY of Count No. *.

FOREPERSON

[fn*]II. We, the jury find the Defendant, *, GUILTY of Count No. *, and find that the value of the property taken was:

[fn**] [] Less than \$500 [\$100].

[fn**] [] \$500 [\$100] or more, but less than \$1,000 [\$500].

[fn**] [] \$1,000 [\$500] or more, but less than \$20,000 [\$15,000].

[fn**] [] \$20,000 [\$15,000] or more.

FOREPERSON

[fn*] The foreperson may sign only one of the above

(I. or II.). If the verdict is NOT GUILTY, then I. above should be signed. If the verdict is GUILTY then II. above should be signed.

[fn**] If you find the defendant guilty, you must also complete this section by placing, in ink, an "X" in the appropriate box indicating your decision. ONLY ONE SQUARE may be filled in with the remainder to remain unmarked.

DEFINITIONS

4-4(1) THEFT DETECTION DEACTIVATING DEVICE

"THEFT DETECTION DEACTIVATING DEVICE" means any tool, instrument, mechanism, or other article adapted, designed, engineered, used, or operated to inactivate, incapacitate, or remove a theft detection device without authorization.

4-4(2) THEFT DETECTION DEVICE

"THEFT DETECTION DEVICE" means an electronic or magnetic mechanism, machine, apparatus, tag, or article designed and operated for the purpose of detecting the unauthorized removal of merchandise from a store or mercantile establishment.

4-4(3) THEFT DETECTION SHIELDING DEVICE

"THEFT DETECTION SHIELDING DEVICE" means any tool, instrument, mechanism, or article adapted, designed, engineered, used, or operated to avoid detection by a theft detection device during the commission of an offense involving theft. "Theft detection shielding device" includes, but is not limited to, any laminated or coated sack or container that is capable of avoiding detection by a theft detection device.

SPECIAL RULES

4-4(12) CONCEALMENT OF GOODS-EVIDENCE OF INTENT

If any person willfully conceals unpurchased goods, wares, or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment be on his own person or otherwise and whether on or off the premises of said store or mercantile establishment, such concealment constitutes evidence that the person intended to commit the crime of theft. [§18-4-406, C.R.S.]