

§352. Definitions

As used in this chapter, unless a different meaning is plainly required by the context: [PL 1975, c. 499, §1 (NEW).]

1. "Property" means anything of value, including but not limited to:

A. Real estate and things growing thereon, affixed to or found thereon; [PL 1975, c. 499, §1 (NEW).]

B. Tangible and intangible personal property; [PL 1975, c. 499, §1 (NEW).]

C. Captured or domestic animals, birds or fishes; [PL 1975, c. 499, §1 (NEW).]

D. Written instruments, including credit cards, or other writings representing or embodying rights concerning real or personal property, labor, services or otherwise containing anything of value to the owner; [PL 1975, c. 499, §1 (NEW).]

E. Commodities of a public utility nature such as telecommunications, gas, electricity, steam or water; and [PL 1975, c. 499, §1 (NEW).]

F. Trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by the owner. [PL 2001, c. 383, §28 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §28 (AMD); PL 2001, c. 383, §156 (AFF).]

2. "Obtain" means:

A. In relation to property, to bring about, in or out of this State, a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; [PL 2001, c. 383, §29 (NEW); PL 2001, c. 383, §156 (AFF).]

B. In relation to labor or services, to secure performance of labor or services; and [PL 2001, c. 383, §29 (NEW); PL 2001, c. 383, §156 (AFF).]

C. In relation to a trade secret, to make any facsimile, replica, photograph or other reproduction. [PL 2001, c. 383, §29 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §29 (RPR); PL 2001, c. 383, §156 (AFF).]

3. "Intent to deprive" means to have the conscious object:

A. To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or the use and benefit of the property, would be lost; or [PL 2001, c. 383, §30 (AMD); PL 2001, c. 383, §156 (AFF).]

B. To restore the property only upon payment of a reward or other compensation; or [PL 1975, c. 499, §1 (NEW).]

C. To use or dispose of the property under circumstances that make it unlikely that the owner will recover it or that manifest an indifference as to whether the owner will recover it. [PL 1981, c. 317, §8 (AMD).]

[PL 2001, c. 383, §30 (AMD); PL 2001, c. 383, §156 (AFF).]

4. "Property of another" includes property in which any person or government other than the actor has an interest that the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of 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 the possession of the actor may not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement.

[PL 2001, c. 383, §31 (AMD); PL 2001, c. 383, §156 (AFF).]

5. The meaning of "value" must be determined according to the following.

A. Except as otherwise provided in this subsection, value means the market value of the property or services at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property or services within a reasonable time after the crime. [PL 1975, c. 499, §1 (NEW).]

B. The value of a written instrument that does not have a readily ascertainable market value, in the case of an instrument such as a check, draft or promissory note, is deemed the amount due or collectible on the instrument, and, in the case of any other instrument that creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation, is deemed the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument. [PL 2001, c. 383, §32 (AMD); PL 2001, c. 383, §156 (AFF).]

C. The value of a trade secret that does not have a readily ascertainable market value is deemed any reasonable value representing the damage to the owner suffered by reason of losing an advantage over those who do not know of or use the trade secret. [PL 2001, c. 383, §32 (AMD); PL 2001, c. 383, §156 (AFF).]

D. If the value of property or services cannot be ascertained beyond a reasonable doubt pursuant to the standards set forth in paragraphs A to C, the trier of fact may find the value to be not less than a certain amount, and if no such minimum value can be thus ascertained, the value is deemed to be an amount less than \$500. [PL 2005, c. 527, §6 (AMD).]

E. Amounts of value involved in thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated to charge a single theft of appropriate class or grade. Subject to the requirement that the conduct of the defense may not be prejudiced by lack of fair notice or by surprise, the court may at any time order that a single aggregated count be considered as separate thefts. An aggregated count of theft may not be deemed duplicitous because of such an order and an election may not be required. Prosecution may be brought in any venue in which one of the thefts that have been aggregated was committed. [PL 2001, c. 383, §32 (AMD); PL 2001, c. 383, §156 (AFF).]

F. The actor's culpability as to value is not an essential requisite of liability, unless otherwise expressly provided. [PL 2001, c. 383, §32 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2005, c. 527, §6 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§52-54 (AMD). PL 1977, c. 510, §46 (AMD). PL 1981, c. 317, §8 (AMD). PL 1995, c. 224, §2 (AMD). PL 2001, c. 383, §§28-32 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 389, §2 (AMD). PL 2005, c. 199, §3 (AMD). PL 2005, c. 527, §6 (AMD).

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