

**THEFT OF SERVICES**  
**(Use of Stolen Credit or Debit Card)**  
**Penal Law § 165.15(1)**  
**(Committed on or after Nov. 1, 1995)**

The (*specify*) count is Theft of Services.

Under our law, a person is guilty of Theft of Services when that person

*[NOTE: Select appropriate alternative:*  
obtains or attempts to obtain a service

*or* induces or attempts to induce the supplier of a rendered service to agree to payment therefor on a credit basis]

by the use of a credit card [*or* debit card] which he or she knows to be stolen.

The following terms used in that definition have a special meaning:

[OBTAIN includes, but is not limited to, the bringing about of a transfer, or purported transfer, of a service or of a legal interest therein, whether to the obtainer or another person.<sup>1</sup>]

A person ATTEMPTS to obtain a service [*or* to induce the supplier of a rendered service to agree to payment therefor on a credit basis] by the use of a credit card [*or* debit card] which he or she knows to be stolen when he or she intends to do so and engages in conduct which tends to effect that objective.<sup>2</sup>

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<sup>1</sup>See, Penal Law § 155.00(2).

<sup>2</sup>See Penal Law § 110.00.

The term SERVICE includes (specify).<sup>3</sup>

[A CREDIT CARD includes any credit card, credit plate, charge plate, courtesy card or other identification card or device issued by a person to another person which may be used to obtain a cash advance or a loan or credit or to purchase or lease property or services on the credit of the issuer or of the holder.<sup>4</sup>]

[A DEBIT CARD includes a card, plate or other similar device issued by a person to another person which may be used, without a personal identification number or code (*or* similar identification number or code) (*or* similar identification), to purchase or lease property or services. The term does not include a credit card or a check, draft or similar instrument.<sup>5</sup>]

A person KNOWS that a credit card [*or* debit card] is stolen when that person is aware that such card is stolen.<sup>6</sup>

A credit card [*or* debit card] is STOLEN when it has been wrongfully taken, obtained, or withheld from an owner by a person who did so with the intent to deprive the owner of such card or to appropriate such card to himself or herself or a third person.<sup>7</sup>

An OWNER of a card means a person who has a right to

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<sup>3</sup>Penal Law § 155.00(8) defines service as follows: "Service includes, but is not limited to, labor, professional service, a computer service, transportation service, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water."

<sup>4</sup>See Penal Law § 155.00(7) and General Business Law § 511(1).

<sup>5</sup>See Penal Law § 155.00(7-a) and General Business Law § 511(9).

<sup>6</sup>See Penal Law § 15.05(2).

<sup>7</sup>See Penal Law § 155.05(1).

possess it which is superior to that of the person who takes it.<sup>8</sup>

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name),

*[Select appropriate alternative:*

obtained or attempted to obtain a service

*or* induced or attempted to induce the supplier of a rendered service to agree to payment for such service on a credit basis]

by the use of a stolen credit card [*or* debit card]; and

2. That the defendant knew that such card was stolen.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.

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<sup>8</sup>See Penal Law § 155.00(5). Also see that section for special definitions of "owner" to cover the situations (1) where the alleged owner obtained the property by theft, (2) where the alleged owner is a joint or common owner of the property, and (3) where the property is in the possession of the alleged owner but some other person has a security interest in the property.