

THEFT OF SERVICES
(Obtaining Transportation Without Payment)¹
Penal Law § 165.15(3)
(Committed on or after Sept. 1, 1967)

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

Under our law, a person is guilty of Theft of Services when with intent to obtain

Select appropriate alternative:

railroad

subway

bus

air

taxi

[any other] public transportation

service without payment of the lawful charge therefor, he [or she] obtains or attempts to obtain such service by

Select appropriate alternative(s):

force [or]

intimidation [or]

stealth [or]

deception [or]

mechanical tampering [or]

unjustifiable failure or refusal to pay.

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

¹ Penal Law § 165.15(3) sets forth two different methods of committing the crime: one in which the defendant rides or attempts to ride without paying a fare required to be paid in advance, for example by jumping a subway turnstile; and one in which the defendant rides and then avoids or attempts to avoid paying a fare due at the end of the ride, for example by refusing to pay a taxi fare. This charge deals with the former situation.

INTENT means conscious objective or purpose.² Thus, a person acts with intent to obtain (*specify*) service without payment of the lawful charge for such service when that person's conscious objective or purpose is to do so.

A person ATTEMPTS to obtain a service by (*specify*) when he or she intends to do so and engages in conduct which tends to effect that objective.³

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.⁴

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)*, obtained or attempted to obtain

Select appropriate alternative:

railroad

subway

bus

air

taxi

[any other] public transportation

service, without payment of the lawful charge for such service, by

²See Penal Law § 15.05(1).

³See Penal Law § 110.00.

⁴See Penal Law § 155.00(2).

Select appropriate alternative(s):

force [or]

intimidation [or]

stealth [or]

deception [or]

mechanical tampering [or]

unjustifiable failure or refusal to pay.; and

2. That the defendant did so with the intent to obtain such service without payment of the lawful charge.

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.