

THEFT OF SERVICES
(A Misdemeanor)
(Restaurant or Lodging Charges)
PENAL LAW 165.15(2)
(Committed on or after Sept. 1, 1967)

The _____ count is Theft of Services.

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

*[NOTE: Select appropriate alternative:
for restaurant services rendered*

or for services rendered to him or her as a transient guest at a hotel (*or* motel) (*or* inn) (*or* tourist cabin) (*or* rooming house) (*or* comparable establishment)],

that person avoids or attempts to avoid such payment by

[NOTE: Select appropriate alternative: unjustifiable failure or refusal to pay

or stealth

or any misrepresentation of fact which he or she knows to be false].

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "intent," [and] "attempt" [and "knows"].

INTENT means conscious objective or purpose.¹ Thus, a person acts with intent to avoid payment for services when such person's conscious objective or purpose is to avoid payment for

¹See Penal Law § 15.05(1).

such services.

Under our law, a person who fails or refuses to pay for services is presumed to have intended to avoid payment for such services.² This means that, if the People have proven beyond a reasonable doubt that the defendant failed or refused to pay for services, you may, but you are not required to, infer from that fact that the defendant intended to avoid payment for such services.

A person ATTEMPTS to avoid payment for services when that person intends to do so and engages in conduct which tends to effect that objective.³

[A person KNOWS that a misrepresentation of fact is false when he or she is aware that such misrepresentation is false.]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, each of the following three elements:

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

[Select appropriate alternative:
restaurant services

or services as a transient guest at a hotel, (*or* motel) (*or* inn) (*or* tourist cabin) (*or* rooming house) (*or* comparable establishment)];

2. That the defendant avoided or attempted to avoid payment for such services by

²See Penal Law § 165.15(2).

³See Penal Law § 110.00.

⁴See Penal Law § 15.05(2).

[Select appropriate alternative:
an unjustifiable failure or refusal to pay

or by stealth

or by any misrepresentation of fact which he/she knew to be false]; and

3. That the defendant did so with the intent to avoid payment for such services.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Theft of Services as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Theft of Services as charged in the _____ count.