**THEFT OF SERVICES**

**(Theft from Barbershops, Salons and Beauty Shops)**

**Penal Law § 165.15(12)1**

**(Committed on or after December 24, 2018)**

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

Under our law, a person is guilty of Theft of Services when that person, with intent to avoid payment for services rendered by a barbershop [*or* salon] [*or* beauty shop] avoids [*or* attempts to avoid] such payment by unjustifiable failure or refusal to pay, [*or* by stealth] [*or* by any misrepresentation of fact which he or she knows to be false].

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

INTENT means conscious objective or purpose.2 Thus, a person acts with intent to avoid payment for services rendered by unjustifiable failure or refusal to pay [*or* by stealth] [*or* by any misrepresentation of fact which he or she knows to be false] when that person’s conscious objective or purpose is to avoid payment for services by such means.

*Add if appropriate:*

A person ATTEMPTS to avoid payment of services by unjustifiable failure or refusal to pay [or by stealth] [or by any misrepresentation of fact which he or she knows to be false] when he or she intends to do so and engages in conduct which tends to effect that objective.3

*Add if appropriate:*

A person KNOWS a misrepresentation of fact is false when he or she is aware that it is false.4

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1This offense is a violation unless the person has previously been convicted of theft of services under this subdivision, in which case it is a misdemeanor. Penal Law § 165.15.

2See Penal Law § 15.05(1).

3See Penal Law § 110.00.

4See Penal Law § 15.05(2).

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*) , avoided [*or* attempted to avoid] payment for services rendered by a barbershop [*or* salon] [*or* beauty shop] by unjustifiable failure or refusal to pay, [*or* by stealth] [*or* by any misrepresentation of fact which he/she knew to be false].

2. That the defendant intended to avoid payment by those means.

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.