

Ala. Code 1975, § 13A-11-153(5)

Obtaining Control by Theft or Deception of Records, Materials, Equipment, Animals or Crops of Any Animal or Crop Facility

The defendant is charged with obtaining control by theft or deception of records, materials, equipment, animals or crops of any animal or crop facility.

A person commits the crime of obtaining control by theft or deception of records, materials, equipment, animals or crops of any animal or crop facility if he/she knowingly obtains control by theft or deception that is unauthorized, or exerts control that is unauthorized over any records, data, materials, equipment, animals, or crops of any animal or crop facility for the purpose of depriving the rightful owner or facility of records, materials, equipment, animals or crops.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant obtained control by theft or deception that was unauthorized, or exerted control that was unauthorized over any records, data, materials, equipment, animals, or crops of any animal or crop facility **(name)**;
- (2) The defendant did so for the purpose of depriving the rightful owner or facility of records, materials, equipment, animals or crops;
- (3) The defendant did so knowingly; **(AND)**
- (4) The loss was **[read as appropriate]: (\$250 or more/under \$250)**.

An *animal or crop facility* is any facility engaging in scientific research, education, or agricultural production of or involving the use of animals or crops including any organization with the primary purpose of representing livestock or crop production or processing; any organization with a primary purpose of promoting or marketing livestock or crops; any organization with a primary purpose of promoting or marketing livestock or crop products or materials; any person licensed to practice veterinary medicine; any person licensed to apply chemical applications not limited to pesticides, insecticides, rodenticides, or herbicides; any organization with a primary purpose of representing any of the above; the owner, operator, and employees of any animal or crop facility; and any vehicle, building, greenhouse, structure, laboratory, pasture, field, paddock, pond, impoundment, or premises where animals or crops are located. [13A-11-152(2)]

An *animal* is every living creature, domestic or wild, with the exception of man and animals used for illegal gaming purposes [13A-11-152(1)]

Crops are any shrub, vine, tree, seedling, shoot, slip, or other plant undergoing experimentation or otherwise capable of producing food, fiber, lawful or legal medicines, nursery stock, floral products, or aesthetic beauty. [13A-11-152(4)]

A *person* is a human being, and where appropriate, a public or private corporation, an unincorporated corporation, a partnership, a government or a governmental instrumentality, or a private organization, association, coalition, federation, and its officers or spokespersons. [13A-11-152(5)]

A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of obtaining control by theft or deception of records, materials, equipment, animals or crops of any animal or crop facility, then you shall find the defendant guilty of obtaining control by theft or deception of records, materials, equipment, animals or crops of any animal or crop facility.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of obtaining control by theft or deception of records, materials, equipment, animals or crops of any animal or crop facility, then you cannot find the defendant guilty of obtaining control by theft or deception of records, materials, equipment, animals or crops of any animal or crop facility.

[If lesser-included offenses are included, the Court should instruct on those offenses at this point.]

Use Notes

Any person who violates this section shall be guilty of a Class C felony if the loss is \$250 or more; otherwise it is a Class A misdemeanor. [13A-11-154]

[Approved 7-22-17.]