**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

2*See* Penal Law § 15.05(1).

3*See* Penal Law § 110.00.

4*See* 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.