

R.S. 2A: 111-40 to 51

LEGISLATIVE FACT SHEET

ON *Definitions; Credit card fraud*

N.J.R.S. *2A: 111-40 to 111-51*

(~~111-40~~ Amendment)

LAWS OF 1968

CHAPTER 300 Sept. 9

SENATE 482

ASSEMBLY

INTRODUCED *Feb. 13*

BY *Mc Dermott, LaCorte et al.*

STATEMENT

YES

NO

AMENDED DURING PASSAGE

YES

NO

HEARING *no*

VETO *no*

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SENATE, No. 482

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1968

By Senators McDERMOTT, LaCORTE, RINALDO and HAUSER

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning crimes, and supplementing subtitle 10 of Title
2A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As used in this act:

2 (a) "Cardholder" means the person or organization named on
3 the face of a credit card to whom or for whose benefit the credit
4 card is issued by an issuer.

5 (b) "Credit card" means any instrument or device, whether
6 known as a credit card, credit plate, or by any other name, issued
7 with or without fee by an issuer for the use of the cardholder in
8 obtaining money, goods, services or anything else of value on credit.

9 (c) "Expired credit card" means a credit card which is no
10 longer valid because the term shown on it has elapsed.

11 (d) "Issuer" means the business organization or financial insti-
12 tution which issues a credit card or its duly authorized agent.

13 (e) "Receives" or "receiving" means acquiring possession or
14 control or accepting as security for a loan.

15 (f) "Revoked credit card" means a credit card which is no
16 longer valid because permission to use it has been suspended or
17 terminated by the issuer.

1 2. A person who makes or causes to be made, either directly or
2 indirectly, any false statement in writing, knowing it to be false
3 and with intent that it be relied on, respecting his identity or that
4 of any other person, firm or corporation, or his financial condition
5 or that of any other person, firm or corporation, for the purpose
6 of procuring the issuance of a credit card, violates this section and
7 is subject to the penalties set forth in subsection (a) of section 10
8 of this act.

1 3. (a) A person who takes a credit card from the person, posses-
2 sion, custody or control of another without the cardholder's consent

3 or who, with knowledge that it has been so taken, receives the credit
4 card with intent to use it or to sell it, or to transfer it to a person
5 other than the issuer or the cardholder is guilty of credit card
6 theft and is subject to the penalties set forth in subsection (a) of
7 section 10 of this act. Taking a credit card without consent in-
8 cludes obtaining it by conduct defined or known as statutory lar-
9 ceny, common law larceny by trespassory taking, common law
10 larceny by trick, embezzlement, or obtaining property by false
11 pretense, false promise or extortion.

12 A person who has in his possession or under his control credit
13 cards issued in the names of 2 or more other persons is presumed
14 to have violated this subsection.

15 (b) A person who receives a credit card that he knows to have
16 been lost, mislaid, or delivered under a mistake as to the identity
17 or address of the cardholder, and who retains possession with in-
18 tent to use it or to sell it or to transfer it to a person other than
19 the issuer or the cardholder is guilty of credit card theft and is
20 subject to the penalties set forth in subsection (a) of section 10
21 of this act.

22 (c) A person other than the issuer who sells a credit card or a
23 person who buys a credit card from a person other than the issuer
24 violates this subsection and is subject to the penalties set forth in
25 subsection (a) of section 10 of this act.

26 (d) A person who, with intent to defraud the issuer, a person
27 or organization providing money, goods, services or anything else
28 of value, or any other person, obtains control over a credit card
29 as security for debt violates this subsection and is subject to the
30 penalties set forth in subsection (a) of section 10 of this act.

31 (e) A person, other than the issuer, who during any 12-month
32 period, receives credit cards issued in the names of 2 or more
33 persons which he has reason to know were taken or retained under
34 circumstances which constitute credit card theft or a violation of
35 section 2 of this act or subsection (c) or (d) of this section violates
36 this subsection and is subject to the penalties set forth in subsec-
37 tion (b) of section 10 of this act.

38 (f) A person who, with intent to defraud a purported issuer,
39 a person or organization providing money, goods, services or any-
40 thing else of value, or any other person, falsely makes or falsely
41 embosses a purported credit card or utters such a credit card is
42 guilty of credit card forgery and is subject to the penalties set
43 forth in subsection (b) of section 10 of this act. A person other
44 than the purported issuer who possesses 2 or more credit cards
45 which are falsely made or falsely embossed is presumed to have

46 violated this subsection. A person "falsely makes" a credit card
47 when he makes or draws, in whole or in part, a device or instru-
48 ment which purports to be the credit card of a named issuer but
49 which is not such a credit card because the issuer did not authorize
50 the making or drawing, or alters a credit card which was validly
51 issued. A person "falsely embosses" a credit card when, without
52 the authorization of the named issuer, he completes a credit card
53 by adding any of the matter, other than the signature of the card-
54 holder, which an issuer requires to appear on the credit card be-
55 fore it can be used by a cardholder.

56 (g) A person other than the cardholder or a person authorized
57 by him who, with intent to defraud the issuer, or a person or or-
58 ganization providing money, goods, services or anything else of
59 value, or any other person, signs a credit card, violates this sub-
60 section and is subject to the penalties set forth in subsection (a)
61 of section 10 of this act. A person who possesses 2 or more credit
62 cards which are so signed is presumed to have violated this sub-
63 section.

1 4. A person, who, with intent to defraud the issuer, a person or
2 organization providing money, goods, services or anything else of
3 value, or any other person, (a) uses for the purpose of obtaining
4 money, goods, services or anything else of value a credit card
5 obtained or retained in violation of section 3 of this act or a credit
6 card which he knows is forged, expired or revoked, or (b) obtains
7 money, goods, services or anything else of value by representing
8 without the consent of the cardholder that he is the holder of a
9 specified card or by representing that he is the holder of a card and
10 such card has not in fact been issued, violates this subsection and is
11 subject to the penalties set forth in subsection (a) of section 10 of
12 this act, if the value of all money, goods, services and other things of
13 value obtained in violation of this subsection does not exceed \$500.00
14 in any 6-month period; and is subject to the penalties set forth in
15 subsection (b) of section 10 of this act, if such value does exceed
16 \$500.00 in any 6-month period. Knowledge of revocation shall be
17 presumed to have been received by a cardholder 4 days after it
18 has been mailed to him at the address set forth on the credit card
19 or at his last known address by registered or certified mail, return
20 receipt requested, and, if, the address is more than 500 miles from
21 the place of mailing, by air mail. If the address is located outside
22 the United States, Puerto Rico, the Virgin Islands, the Canal Zone
23 and Canada, notice shall be presumed to have been received 10 days
24 after mailing by registered or certified mail.

1 5. (a) A person who is authorized by an issuer to furnish money,
2 goods, services or anything else of value upon presentation of a
3 credit card by the cardholder, or any agent or employees of such
4 person, who, with intent to defraud the issuer or the cardholder,
5 furnishes money, goods, services or anything else of value upon
6 presentation of a credit card obtained or retained in violation of
7 section 3 of this act or a credit card which he knows is forged,
8 expired or revoked violates this subsection and is subject to the
9 penalties set forth in subsection (a) of section 10 of this act, if the
10 value of all money, goods, services and other things of value
11 furnished in violation of this subsection does not exceed \$500.00
12 in any 6-month period; and is subject to the penalties set forth
13 in subsection (b) of section 10 of this act if such value does exceed
14 \$500.00 in any 6-month period.

15 (b) A person who is authorized by an issuer to furnish money,
16 goods, services or anything else of value upon presentation of a
17 credit card by the cardholder, or any agent or employee of such
18 person, who, with intent to defraud the issuer or the cardholder,
19 fails to furnish money, goods, services or anything else of value
20 which he represents in writing to the issuer that he has furnished
21 violates this subsection and is subject to the penalties set forth
22 in subsection (a) of section 10 of this act, if the difference between
23 the value of all money, goods, services and anything else of value
24 actually furnished and the value represented to the issuer to have
25 been furnished does not exceed \$500.00 in any 6-month period;
26 and is subject to the penalties set forth in subsection (b) of section
27 10 of this act if such difference does exceed \$500.00 in any 6-month
28 period.

1 6. A person other than the cardholder possessing 2 or more
2 incomplete credit cards, with intent to complete them without the
3 consent of the issuer or a person possessing, with knowledge of
4 its character, machinery, plates or any other contrivance designed
5 to reproduce instruments purporting to be the credit cards of an
6 issuer who has not consented to the preparation of such credit
7 cards, violates this subsection and is subject to the penalties set
8 forth in subsection (b) of section 10 of this act. A credit card is
9 "incomplete" if part of the matter other than the signature of
10 the cardholder, which an issuer requires to appear on the credit
11 card, before it can be used by a cardholder, has not yet been
12 stamped, embossed, imprinted or written on it.

1 7. A person who receives money, goods, services or anything else
2 of value obtained in violation of section 4 of this act, knowing or
3 believing that it was so obtained violates this section and is subject

4 to the penalties set forth in subsection (a) of section 10 of this
5 act. A person who obtains at a discount price a ticket issued by an
6 airline, railroad, steamship or other transportation company which
7 was acquired in violation of section 4 of this act without reasonable
8 inquiry to ascertain that the person from whom it was obtained
9 had a legal right to possess it shall be presumed to know that such
10 ticket was acquired under circumstances constituting a violation
11 of section 4 of this act.

1 8. In any prosecution for violation of this act, the State is not
2 required to establish and it is no defense:

3 (a) That a person other than the defendant who violated this
4 act has not been convicted, apprehended or identified; or

5 (b) That some of the acts constituting the crime did not occur
6 in this State or were not a crime or elements of a crime where
7 they did occur.

1 9. When this act establishes a presumption with respect to
2 any fact which is an element of a crime, it has the following
3 consequences:

4 (a) When there is sufficient evidence of the facts which give
5 rise to the presumption to go to the jury, the issue of the existence
6 of the presumed fact must be submitted to the jury, unless the
7 court is satisfied that the evidence as a whole clearly negatives
8 the presumed fact; and

9 (b) When the issue of the existence of the presumed fact is sub-
10 mitted to the jury, the court shall charge that while the presumed
11 fact must, on all the evidence, be proved beyond a reasonable
12 doubt, the law declares that the jury may regard the facts giving
13 rise to the presumption as sufficient evidence of the presumed fact.

1 10. (a) A person who is subject to the penalties of this subsection
2 shall be fined not more than \$1,000.00 or imprisoned not more than
3 1 year, or both.

4 (b) A person who is subject to the penalties of this subsection
5 shall be fined not more than \$3,000.00 or imprisoned not more than
6 3 years, or both.

1 11. This act shall not be construed to preclude the applicability
2 of any other provision of the criminal law of this State which
3 presently applies or may in the future apply to any transaction
4 which violates this act, unless such provision is inconsistent with
5 the terms of this act.

1 12. If any provision of this act or its application to any person
2 or circumstance is held invalid, the invalidity shall not affect other
3 provisions or applications of the act which can be given effect
4 without the invalid provision or application, and to this end the
5 provisions of this act are declared to be severable.

1 13. This act shall take effect immediately.