

2C:21-17

LEGISLATIVE HISTORY CHECKLIST
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(Fraudent application for services--
additional elements of crime)

NJSA: 2C:21-17

LAWS OF: 1995 **CHAPTER:** 417

BILL NO: A2505

SPONSOR(S): Stuhltrager and others

DATE INTRODUCED: January 19, 1995

COMMITTEE: **ASSEMBLY:** Judiciary
SENATE: Law and Public Safety

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
First reprint enacted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** June 12, 1995
SENATE: January 9, 1996

DATE OF APPROVAL: January 11, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

[FIRST REPRINT]
ASSEMBLY, No. 2505
STATE OF NEW JERSEY

INTRODUCED JANUARY 19, 1995

By Assemblymen STUHLTRAGER, COLLINS and Geist

1 AN ACT concerning certain offenses by fraudulent application
2 for ¹[utility service] services¹ and ¹[supplementing chapter 21
3 of Title 2C of the New Jersey Statutes] amending
4 N.J.S.2C:21-17 and N.J.S.2C:43-3¹.

5

6 BE IT ENACTED *by the Senate and General Assembly of the*
7 *State of New Jersey:*

8 1. ¹[a. Except as provided in subsection b. of this section, a
9 person is guilty of theft if he purposely obtains or causes to be
10 obtained, either directly or indirectly, utility service by means of
11 false or misleading statements or providing misidentification or
12 misleading information either verbally or in writing in order to
13 avoid payment for current or prior utility service.

14 b. A person commits a disorderly persons offense if he makes,
15 or causes to be made, either directly or indirectly, any false or
16 misleading statements or information regarding his identity or
17 that of any other person, firm or corporation with the intent that
18 it be relied upon for the purpose of obtaining utility service.

19 c. Proof of any false or misleading statements,
20 misidentification or misleading information given in connection
21 with obtaining utility service as set forth in this section is
22 presumptive evidence that the person to whom the utility service
23 is or will be furnished has, with the intent to defraud, provided or
24 caused to be provided, the false or fraudulent information to the
25 vendor of the utility services.

26 d. In addition to any other disposition authorized by law, and in
27 addition to any sentence imposed pursuant to the provisions of
28 chapter 43 of Title 2C of the New Jersey Statutes, every person
29 who violates this section shall be sentenced to make restitution
30 to the vendor and shall pay a minimum fine of \$500 for each
31 offense. In determining the amount of restitution, the court shall
32 consider the costs expended by the vendor, including but not
33 limited to, the cost of the utility services unlawfully obtained or
34 for which payment was avoided, investigation expenses and
35 attorneys fees.

36 e. As used in this section, "utility service" means electric,
37 water, gas, telephone, telecommunications, cable television or
38 other public service.]¹

39 ¹N.J.S.2C:21-17 is amended to read as follows:

40 a. A person is guilty of a disorderly persons offense when he:

41 (1) Impersonates another or assumes a false identity and does
42 an act in such assumed character or false identity for purpose of
43 obtaining a pecuniary benefit for himself or another or to injure

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
¹ Senate floor amendments adopted December 7, 1995.

1 or defraud another; [or]

2 (2) Pretends to be a representative of some person or
3 organization and does an act in such pretended capacity for the
4 purpose of obtaining a benefit for himself or another or to injure
5 or defraud another; or

6 (3) Impersonates another, assumes a false identity or makes a
7 false or misleading statement regarding the identity of any
8 person, in an oral or written application for services, for the
9 purpose of obtaining services.

10 b. A person is guilty of an offense if, in the course of making
11 an oral or written application for services, he impersonates
12 another, assumes a false identity or makes a false or misleading
13 statement with the purpose of obtaining services and avoiding
14 payment for prior services. If the payment sought to be avoided
15 is \$75,000 or more, the offender is guilty of a crime of the second
16 degree. If the payment sought to be avoided exceeds \$1,000, but
17 is less than \$75,000, the offender is guilty of a crime of the third
18 degree. If the payment sought to be avoided is \$1,000 or less, the
19 offender is guilty of a crime of the fourth degree. Purpose to
20 avoid payment for prior services may be presumed upon proof
21 that the person has not made full payment for prior services and
22 has impersonated another, assumed a false identity or made a
23 false or misleading statement regarding the identity of any
24 person in the course of making oral or written application for
25 services¹.

26 (cf: N.J.S.2C:21-17)

27 ^{12.} N.J.S.2C:43-3 is amended to read as follows:

28 A person who has been convicted of an offense may be
29 sentenced to pay a fine, to make restitution, or both, such fine
30 not to exceed:

31 a. \$100,000.00, when the conviction is of a crime of the first
32 or second degree;

33 b. \$7,500.00, when the conviction is of a crime of the third or
34 fourth degree;

35 c. \$1,000.00, when the conviction is of a disorderly persons
36 offense;

37 d. \$500.00, when the conviction is of a petty disorderly persons
38 offense;

39 e. Any higher amount equal to double the pecuniary gain to the
40 offender or loss to the victim caused by the conduct constituting
41 the offense by the offender. In such case the court shall make a
42 finding as to the amount of the gain or loss, and if the record
43 does not contain sufficient evidence to support such a finding the
44 court may conduct a hearing upon the issue. For purposes of this
45 section the terms "gain" means the amount of money or the value
46 of property derived by the offender and "loss" means the amount
47 of value separated from the victim or the amount of any payment
48 owed to the victim and avoided or evaded and includes any
49 reasonable and necessary expense incurred by the owner in
50 recovering or replacing lost, stolen or damaged property, or
51 recovering any payment avoided or evaded, and, with respect to
52 property of a research facility, includes the cost of repeating an
53 interrupted or invalidated experiment or loss of profits. The term
54 "victim" shall mean a person who suffers a personal physical or

1 psychological injury or death or incurs loss of or injury to
2 personal or real property as a result of a crime committed
3 against that person, or in the case of a homicide, the nearest
4 relative of the victim. The [term] terms "gain" and "loss" shall
5 also mean, where appropriate, the amount of any tax, fee,
6 penalty and interest avoided, evaded, or otherwise unpaid or
7 improperly retained or disposed of;

8 f. Any higher amount specifically authorized by another
9 section of this code or any other statute;

10 g. Up to twice the amounts authorized in subsection a., b., c.
11 or d. of this section, in the case of a second or subsequent
12 conviction of any tax offense defined in Title 54 of the Revised
13 Statutes or Title 54A of the New Jersey Statutes, as amended and
14 supplemented, or of any offense defined in chapter 20 or 21 of
15 this code.

16 h. In the case of violations of chapter 35, any higher amount
17 equal to three times the street value of the controlled dangerous
18 substance or controlled substance analog. The street value for
19 purposes of this section shall be determined pursuant to
20 subsection e. of N.J.S.2C:44-2.

21 The restitution ordered paid to the victim shall not exceed the
22 victim's loss, except that in any case involving the failure to pay
23 any State tax, the amount of restitution to the State shall be the
24 full amount of the tax avoided or evaded, including full civil
25 penalties and interest as provided by law. In any case where the
26 victim of the offense is any department or division of State
27 government, the court shall order restitution to the victim. Any
28 restitution imposed on a person shall be in addition to any fine
29 which may be imposed pursuant to this section.¹

30 (cf: P.L.1995, c.20, s.6)

31 ¹[2.] 3.¹ This act shall take effect immediately.

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36 _____
37 Clarifies certain theft and related offenses concerning fraudulent
practices to obtain services.

ASSEMBLY, No. 2505

STATE OF NEW JERSEY

INTRODUCED JANUARY 19, 1995

By Assemblymen STUHLTRAGER, COLLINS and Geist

1 AN ACT concerning certain offenses by fraudulent application
2 for utility service and supplementing chapter 21 of Title 2C of
3 the New Jersey Statutes.

4

5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. a. Except as provided in subsection b. of this section, a
8 person is guilty of theft if he purposely obtains or causes to be
9 obtained, either directly or indirectly, utility service by means of
10 false or misleading statements or providing misidentification or
11 misleading information either verbally or in writing in order to
12 avoid payment for current or prior utility service.

13 b. A person commits a disorderly persons offense if he makes,
14 or causes to be made, either directly or indirectly, any false or
15 misleading statements or information regarding his identity or
16 that of any other person, firm or corporation with the intent that
17 it be relied upon for the purpose of obtaining utility service.

18 c. Proof of any false or misleading statements,
19 misidentification or misleading information given in connection
20 with obtaining utility service as set forth in this section is
21 presumptive evidence that the person to whom the utility service
22 is or will be furnished has, with the intent to defraud, provided or
23 caused to be provided, the false or fraudulent information to the
24 vendor of the utility services.

25 d. In addition to any other disposition authorized by law, and in
26 addition to any sentence imposed pursuant to the provisions of
27 chapter 43 of Title 2C of the New Jersey Statutes, every person
28 who violates this section shall be sentenced to make restitution
29 to the vendor and shall pay a minimum fine of \$500 for each
30 offense. In determining the amount of restitution, the court shall
31 consider the costs expended by the vendor, including but not
32 limited to, the cost of the utility services unlawfully obtained or
33 for which payment was avoided, investigation expenses and
34 attorneys fees.

35 e. As used in this section, "utility service" means electric,
36 water, gas, telephone, telecommunications, cable television or
37 other public service.

38 2. This act shall take effect immediately.

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STATEMENT

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43 This bill supplements the current statutory provisions
44 concerning theft of services. It clarifies that a person is guilty of
45 theft if he makes fraudulent statements either verbally or in
46 writing in order to avoid payment for current or prior utility
47 usage. The grading of a theft offense depends on the value of the

1 services and can range from a disorderly persons offense to a
2 crime of the second degree. The grading is set forth in
3 subsection b. of N.J.S.2C:20-2. The utilities, due to their
4 obligation to provide service upon receipt of, and reliance on,
5 oral or written applications, experience incidents where people or
6 companies fraudulently obtain utility services by providing false
7 statements or information to the utilities.

8 The bill also provides that any person who makes, or causes to
9 be made, either directly or indirectly, any false or misleading
10 statements of information regarding his identity or that of any
11 other person, firm, or corporation with the intent that it be relied
12 upon for the purpose of obtaining utility service commits a
13 disorderly persons offense. Proof of any false or misleading
14 statements, misidentification or misleading information given in
15 connection with obtaining utility service is presumptive evidence
16 that the person to whom the utility service is furnished has
17 provided the false or fraudulent information, with the intent to
18 defraud, to the vendor of the utility services. This bill would
19 provide that violators of this section with respect to utility
20 services would be required to make restitution for the cost of the
21 utility services unlawfully obtained or for which payment was
22 avoided and pay a minimum fine of \$500 for each offense.

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27 Clarifies certain theft and related offenses concerning fraudulent
28 practices to obtain utility services.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2505

STATE OF NEW JERSEY

DATED: APRIL 12, 1995

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The Assembly Judiciary, Law and Public Safety Committee reports favorably Assembly Bill No. 2505.

This bill supplements the current statutory provisions concerning theft of services. It clarifies that a person is guilty of theft if he makes fraudulent statements either verbally or in writing in order to avoid payment for current or prior utility usage. The grading of a theft offense depends on the value of the services and can range from a disorderly persons offense to a crime of the second degree. The grading is set forth in subsection b. of N.J.S.2C:20-2. The utilities, due to their obligation to provide service upon receipt of, and reliance on, oral or written applications, experience incidents where people or companies fraudulently obtain utility services by providing false statements or information to the utilities.

The bill also provides that any person who makes, or causes to be made, either directly or indirectly, any false or misleading statements of information regarding his identity or that of any other person, firm, or corporation with the intent that it be relied upon for the purpose of obtaining utility service commits a disorderly persons offense. Proof of any false or misleading statements, misidentification or misleading information given in connection with obtaining utility service is presumptive evidence that the person to whom the utility service is furnished has provided the false or fraudulent information, with the intent to defraud, to the vendor of the utility services. This bill would provide that violators of this section with respect to utility services would be required to make restitution for the cost of the utility services unlawfully obtained or for which payment was avoided and pay a minimum fine of \$500 for each offense.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2505

STATE OF NEW JERSEY

DATED: NOVEMBER 9, 1995

The Senate Law and Public Safety Committee favorably reports Assembly Bill No. 2505.

Due to their obligation to provide service upon receipt of and reliance on oral or written applications, the utilities experience incidents where people or companies fraudulently obtain their services by providing false statements or information. This bill addresses this issue by supplementing the current statutory provisions concerning theft of services. It clarifies that a person is guilty of theft if he makes fraudulent statements either verbally or in writing in order to avoid payment for current or prior utility usage. The grading of a theft offense, set forth in subsection b. of N.J.S.2C:20-2, depends on the value of the services and can range from a disorderly persons offense to a crime of the second degree.

The bill also provides that any person who makes, or causes to be made, either directly or indirectly, any false or misleading statements of information regarding his identity or that of any other person, firm, or corporation with the intent that it be relied upon for the purpose of obtaining utility service commits a disorderly persons offense. Proof of any false or misleading statements, misidentification or misleading information given in connection with obtaining utility service is presumptive evidence that the person to whom the utility service is furnished has provided to the vendor of the utility services the false or fraudulent information with the intent to defraud.

The bill provides that violators would be required to make restitution for the cost of the utility services unlawfully obtained or for which payment was avoided and pay a minimum fine of \$500 for each offense.