

1973 Senate Bill 353

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CHAPTER 219, Laws of 1973

AN ACT to repeal and recreate 943.41 of the statutes, relating to credit card crimes and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

943.41 of the statutes is repealed and recreated to read:

943.41 Credit card crimes. (1) DEFINITIONS. In this section:

(a) "Alter a credit card or purported credit card" means change in any respect by addition, deletion or electromagnetic manipulation any material on or in any instrument or device, whether known as a credit card, cash card, credit plate, charge

plate or by any other name, except to insert the signature of the person to whom the card is issued.

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

(c) "Counterfeit" means to manufacture, produce or create by any means a credit card or purported credit card without the issuer's consent or authorization.

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

(e) "Expired credit card" means a credit card which is no longer valid because the term shown thereon has elapsed.

(f) "Issuer" means the business organization or financial institution which issues a credit card or its duly authorized agent.

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

(h) "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

(2) FALSE STATEMENTS. No person shall make or cause to be made, whether directly or indirectly, any false statements in writing, knowing it to be false and with intent that it be relied upon, respecting his identity or that of any other person or his financial condition or that of any other person or other entity for the purpose of procuring the issuance of a credit card.

(3) THEFT BY TAKING CARD. (a) No person shall acquire a credit card from the person, possession, custody or control of another without the cardholder's consent or, with knowledge that it has been so acquired, receive the credit card with intent to use it or sell it or to transfer it to a person other than the issuer. Acquiring a credit card without consent includes obtaining it by conduct defined as statutory theft. If a person has in his possession or under his control credit cards issued in the names of 2 or more other persons it is prima facie evidence that he acquired them in violation of this subsection.

(b) No person shall receive a credit card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and retain possession thereof with intent to sell it, or to transfer it to a person other than the issuer or the cardholder, or to use it. The possession of such a credit card for more than 7 days by a person other than the issuer or the cardholder is prima facie evidence that such person intended to sell, transfer or use it in violation of this subsection.

(c) No person other than the issuer shall sell a credit card. No person shall buy a credit card from a person other than the issuer.

(d) No person shall, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person, obtain control over a credit card as security for debt.

(e) No person, other than the issuer, shall during any 12-month period receive credit cards issued in the names of 3 or more persons which he has reason to know were taken or retained under circumstances prohibited by this subsection or sub. (2).

(4) **FORGERY OF CREDIT CARD.** (a) No person shall, with intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value or any other person, alter or counterfeit a credit card or purported credit card or possess a credit card or purported credit card with knowledge that it has been altered or counterfeited. The possession by a person other than the purported issuer of 2 or more credit cards which have been altered or counterfeited is prima facie evidence that the person intended to defraud or that he knew the credit cards to have been so altered or counterfeited.

(b) No person other than the cardholder or a person authorized by him shall, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value or any other person, sign a credit card. Possession by a person other than the intended cardholder or one authorized by the intended cardholder of a credit card signed by such person is prima facie evidence that such person intended to defraud in violation of this subsection.

(5) **FRAUDULENT USE.** (a) No person shall, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value or any other person, 1) use for the purpose of obtaining money, goods, services or anything else of value, a credit card obtained or retained in violation of sub. (3) or a credit card which he knows is forged, expired or revoked, or 2) obtain money, goods, services or anything else of value by representing without the consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued. Knowledge of revocation shall be presumed to have been received by a cardholder 4 days after it has been mailed to him at the address set forth on the credit card or at his last-known address by registered or certified mail, return receipt requested, and if the address is more than 500 miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone and Canada, notice shall be presumed to have been received 10 days after mailing by registered or certified mail.

(b) No cardholder shall use a credit card issued to him or allow another person to use a credit card issued to him with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value or any other person.

(6) **FRAUDULENT USE; OTHER PERSONS.** (a) No person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card by the cardholder, or any agent or employe of such person, shall, with intent to defraud the issuer or the cardholder, furnish money, goods, services or anything else of value upon presentation of a credit card obtained or retained under circumstances prohibited by sub. (3) or a credit card which he knows is forged, expired or revoked.

(b) No person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card by the cardholder, or any agent or employe of such person, shall, with intent to defraud, fail to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished.

(c) No person other than the cardholder shall possess an incomplete credit card with intent to complete it without the consent of the issuer. A credit card is "incomplete" if part of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder has not yet been stamped, embossed, imprinted or written on it.

(d) No person shall receive money, goods, services or anything else of value obtained under circumstances prohibited by this section, knowing or believing that it was so obtained. Any person who obtains at a discount price a ticket issued by an airline, railroad, steamship or other transportation company which was acquired under circumstances prohibited by this section without reasonable inquiry to ascertain that the person from whom it was obtained had a legal right to possess it shall be presumed to know that such ticket was acquired under circumstances prohibited by this section.

(7) DEFENSES NOT AVAILABLE. In any prosecution for violation of this section, it is not a defense:

(a) That a person other than the defendant has not been convicted, apprehended or identified; or

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

(8) PENALTIES. (a) Any person violating any provision of sub. (2), (3) (a) to (d) or (4) (b) may be fined not more than \$1,000 or imprisoned in the county jail not more than one year or both.

(b) Any person violating any provision of sub. (3) (e), (4) (a) or (6) (c) may be fined not less than \$500 nor more than \$3,000 or imprisoned not less than 6 months nor more than 3 years or both.

(c) Any person violating any provision of sub. (5) or (6) (a), (b) or (d) may, if the value of the money, goods, services or property illegally obtained does not exceed \$500 be fined not more than \$1,000 or imprisoned in the county jail not more than one year, or both; if the value of the money, goods, services or property exceeds \$500 but does not exceed \$2,500, in a single transaction or in separate transactions within a period not exceeding 6 months, he may be fined not more than \$5,000 or imprisoned for not more than 5 years or both; or if the value of the money, goods, services or property exceeds \$2,500, he may be fined not more than \$10,000 or imprisoned for not more than 10 years or both.
