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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993



ENROLLED

HOUSE BILL No. 2102

(By Delegate 3 *Carpenter, Phillips, Harrison*
and Williams)



Passed April 8, 1993

In Effect Ninety Days From Passage

ENROLLED
H. B. 2102

(By DELEGATES CARPER, PHILLIPS, HARRISON AND WILLIAMS)

[Passed April 8, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-four-a, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to credit card crimes; defining terms; expanding the crime of forgery of a credit card and providing criminal penalties therefor; prohibiting traffic in counterfeit credit cards and providing criminal penalties therefor; prohibiting the use of revoked credit cards and providing criminal penalties therefor; prohibiting the possession or transfer of credit card making equipment and providing criminal penalties therefor; and prohibiting acquisition or possession of counterfeit credit cards and providing criminal penalties therefor.

Be it enacted by the Legislature of West Virginia:

That section twenty-four-a, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-24a. Attempted or fraudulent use, forgery, traffic of credit cards; possession and transfer of credit cards and credit card making equipment; false or fraudulent use of telephonic services; penalties.

1 (a) As used in this section:

2 (1) "Counterfeit credit card" means the following:

3 (A) Any credit card or a representation, depiction,
4 facsimile, aspect or component thereof that is counter-
5 feit, fictitious, altered, forged, lost, stolen, incomplete or
6 obtained in violation of this section, or as part of a
7 scheme to defraud; or

8 (B) Any invoice, voucher, sales draft or other reflec-
9 tion or manifestation of such a card.

10 (2) "Credit card making equipment" means any
11 equipment, machine, plate mechanism, impression or
12 any other contrivance which can be used to produce a
13 credit card, a counterfeit credit card, or any aspect or
14 component of either.

15 (3) "Traffic" means:

16 (A) To sell, transfer, distribute, dispense or otherwise
17 dispose of any property; or

18 (B) To buy, receive, possess, obtain control of or use
19 property with the intent to sell, transfer, distribute,
20 dispense or otherwise dispose of such property.

21 (4) "Notice" means either information given in person
22 or information given in writing to the person to whom
23 the number, card or device was issued. The sending of
24 a notice in writing by registered or certified mail in the
25 United States mail, duly stamped and addressed to such
26 person at his last known address, is prima facie evidence
27 that such notice was duly received. A cardholder's
28 knowledge of the revocation of his or her credit card
29 may be reasonably inferred by evidence that notice of
30 such revocation was mailed to him or her, at least four
31 days prior to his or her use or attempted use of the
32 credit card, by first class mail at his or her last known
33 address.

34 (b) (1) It is unlawful for any person knowingly to
35 obtain or attempt to obtain credit, or to purchase or
36 attempt to purchase any goods, property or service, by
37 the use of any false, fictitious or counterfeit credit card,
38 telephone number, credit number or other credit device,
39 or by the use of any credit card, telephone number,

40 credit number or other credit device of another beyond
41 or without the authority of the person to whom such
42 card, number or device was issued, or by the use of any
43 credit card, telephone number, credit number or other
44 credit device in any case where such card, number or
45 device has been revoked and notice of such revocation
46 has been given to the person to whom issued.

47 (2) It is unlawful for any person knowingly to obtain
48 or attempt to obtain, by the use of any fraudulent
49 scheme, device, means or method, telephone or tele-
50 graph service or the transmission of a message, signal
51 or other communication by telephone or telegraph, or
52 over telephone or telegraph facilities with intent to avoid
53 payment of charges therefor.

54 (3) Any person who violates any provision of this
55 subsection, if the credit, goods, property, service or
56 transmission is of the value of two hundred dollars or
57 more, is guilty of a felony, and, upon conviction thereof,
58 shall be imprisoned in a penitentiary not less than one
59 nor more than ten years; and if of less value, is guilty
60 of a misdemeanor, and, upon conviction thereof, shall be
61 imprisoned in the county or regional jail not exceeding
62 one year or fined not more than five hundred dollars,
63 or both imprisoned and fined. Any person convicted of
64 an attempt to commit an offense under the provisions
65 of this subsection is guilty of a misdemeanor, and, upon
66 conviction thereof, shall be imprisoned in the county or
67 regional jail not exceeding six months or fined not less
68 than fifty nor more than three hundred dollars, or both
69 imprisoned and fined.

70 (c) A person is guilty of forgery of a credit card when
71 he or she makes, manufactures, presents, embosses,
72 alters or utters a credit card with intent to defraud any
73 person, issuer of credit or organization providing money,
74 goods, services, or anything else of value in exchange for
75 payment by credit card and he or she is guilty of a
76 felony, and, upon conviction thereof, shall be imprisoned
77 in the penitentiary not less than one nor more than ten
78 years, or be imprisoned in the county or regional jail not
79 more than one year and fined not less than fifty nor
80 more than five hundred dollars.

81 (d) Any person who traffics in or attempts to traffic
82 in ten or more counterfeit credit cards or credit card
83 account numbers of another in any six-month period is
84 guilty of a felony, and, upon conviction thereof, shall be
85 imprisoned in the penitentiary not less than one nor
86 more than ten years, or be imprisoned in the county or
87 regional jail not more than one year and fined not less
88 than fifty nor more than five hundred dollars.

89 (e) A person who receives, possesses, transfers, buys,
90 sells, controls or has custody of any credit card making
91 equipment with intent that the equipment be used in the
92 production of counterfeit credit cards is guilty of a
93 felony, and, upon conviction thereof, shall be imprisoned
94 in the penitentiary not less than one nor more than five
95 years, or be imprisoned in the county or regional jail not
96 more than one year and fined not less than five hundred
97 nor more than five thousand dollars.

98 (f) A person who receives, possesses, acquires, controls
99 or has custody of a counterfeit credit card is guilty of
100 a misdemeanor, and, upon conviction thereof, shall be
101 imprisoned in the county or regional jail not exceeding
102 six months or fined not less than fifty nor more than
103 three hundred dollars, or both fined and imprisoned.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Handwritten Signature]

Chairman Senate Committee

Ernest C. Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Harold E. Holmes
Clerk of the Senate

Donald A. Hogg
Clerk of the House of Delegates

Kevin White
President of the Senate

B. C. Cole
Speaker of the House of Delegates

The within is approved this the 19th day of April, 1993.

Winston Osgood
Governor

PRESENTED TO THE

GOVERNOR

Date

9/16/93

Time

1:01 pm