

Counterfeiting

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2C:21-6. Credit cards

a. Definitions. As used in this section:

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

(2) Credit card means any tangible or intangible instrument or device issued with or without fee by an issuer that can be used, alone or in connection with another means of account access, in obtaining money, goods, services or anything else of value on credit, including credit cards, credit plates, account numbers, or any other means of account access.

(3) Expired credit card means a credit card which is no longer valid because the term shown either on it or on documentation provided to the cardholder by the issuer has elapsed.

(4) Issuer means the business organization or financial institution which issues a credit card or its

duly authorized agent.

(5) Receives or receiving means acquiring possession or control or accepting a credit card as security for a loan.

(6) Revoked credit card means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

b. False statements made in procuring issuance of credit card. A person who makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting his identity or that of any other person, firm or corporation, or his financial condition or that of any other person, firm or corporation, for the purpose of procuring the issuance of a credit card is guilty of a crime of the fourth degree.

c. Credit card theft.

(1) A person who takes or obtains a credit card from the person, possession, custody or control of another without the cardholders consent or who, with knowledge that it has been so taken, receives the credit card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder is guilty of a crime of the fourth degree. Taking a credit card without consent includes obtaining it by any conduct defined and prescribed in Chapter 20 of this title, Theft and Related Offenses.

A person who has in his possession or under his control (a) credit cards issued in the names of two or more other persons or, (b) two or more stolen credit cards is presumed to have violated this paragraph.

(2) A person who receives 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 who retains possession with

intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder is guilty of a crime of the fourth degree.

(3) A person other than the issuer who sells a credit card or a person who buys a credit card from a person other than the issuer is guilty of a crime of the fourth degree.

(4) A person who, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person, obtains control over a credit card as security for debt is guilty of a crime of the fourth degree.

(5) A person who, with intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value, or any other person, falsely makes or falsely embosses a purported credit card or utters such a credit card is guilty of a third degree offense. A person other than the purported issuer who possesses two or more credit cards which are falsely made or falsely embossed is presumed to have violated this paragraph. A person falsely makes a credit card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit card of a named issuer but which is not such a credit card because the issuer did not authorize the making or drawing, or alters a credit card which was validly issued. A person falsely embosses a credit card when, without the authorization of the named issuer, he completes a credit card by adding any 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.

(6) A person other than the cardholder or a person authorized by him who, with intent to defraud the issuer, or a person or organization providing money, goods, services or anything else of value, or any other person, signs a credit card, is guilty of a crime of the fourth degree. A person who possesses two or more credit cards which are so signed is presumed to have violated this paragraph.

d. Intent of cardholder to defraud; penalties; knowledge of revocation. A person, who, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person, (1) uses for the purpose of obtaining money, goods, services or anything else of value a credit card obtained or retained in violation of subsection c. of this section or a credit card which he knows is forged, expired or revoked, or (2) obtains 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, is guilty of a crime of the third degree. Knowledge of revocation shall be presumed to have been received by a cardholder four 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.

e. Intent to defraud by person authorized to furnish money, goods, or services; penalties.

(1) A 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 employees of such person, who, with intent to defraud the issuer or the cardholder, furnishes money, goods, services or anything else of value upon presentation of a credit card obtained or retained in violation of subsection c. of this section or a credit card which he knows is forged, expired or revoked violates this paragraph and is guilty of a crime of the third degree.

(2) A 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, fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished is

guilty of a crime of the fourth degree.

f. Incomplete credit cards; intent to complete without consent. A person other than the cardholder possessing two or more incomplete credit cards, with intent to complete them without the consent of the issuer or a person possessing, with knowledge of its character, machinery, plates or any other contrivance designed to reproduce instruments purporting to be the credit cards of an issuer who has not consented to the preparation of such credit cards, is guilty of a crime of the third degree. 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.

g. Receiving anything of value knowing or believing that it was obtained in violation of subsection d. of N.J.S.2C:21-6. A person who receives money, goods, services or anything else of value obtained in violation of subsection d. of this section, knowing or believing that it was so obtained is guilty of a crime of the fourth degree. A person who obtains, at a discount price a ticket issued by an airline, railroad, steamship or other transportation company which was acquired in violation of subsection d. of 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 constituting a violation of subsection d. of this section.

h. Fraudulent use of credit cards.

A person who knowingly uses any counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained credit card to obtain money, goods or services, or anything else of value; or who, with unlawful or fraudulent intent, furnishes, acquires, or uses any actual or fictitious credit card, whether alone or together with names of credit cardholders, or other information

pertaining to a credit card account in any form, is guilty of a crime of the third degree.

2C:21-32 Short title; definitions relative to counterfeit marks; offenses.

1. a. This act shall be known and may be cited as the New Jersey Trademark Counterfeiting Act.

b. As used in this act:

(1) Counterfeit mark means a spurious mark that is identical with or substantially indistinguishable from a genuine mark that is registered on the principal register in the United States Patent and Trademark Office or registered in the New Jersey Secretary of States office or a spurious mark that is identical with or substantially indistinguishable from the words, names, symbols, emblems, signs, insignias or any combination thereof, of the United States Olympic Committee or the International Olympic Committee; and that is used or is intended to be used on, or in conjunction with, goods or services for which the genuine mark is registered and in use.

(2) Retail value means the counterfeiters regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiters regular selling price of the finished product on or in which the component would be utilized.

c. A person commits the offense of counterfeiting who, with the intent to deceive or defraud some other person, knowingly manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute within, or in conjunction with commercial activities within New Jersey, any item, or services, bearing, or identified by, a counterfeit mark.

A person who has in his possession or under his control more than 25 items bearing a counterfeit

mark shall be presumed to have violated this section.

d. (1) An offense set forth in this act shall be punishable as a crime of the fourth degree if:

the offense involves fewer than 100 items bearing a counterfeit mark;

the offense involves a total retail value of less than \$1,000.00 for all items bearing, or services identified by, a counterfeit mark; or

the offense involves a first conviction under this act.

(2) An offense set forth in this act shall be punishable as a crime of the third degree if:

the offense involves 100 or more but fewer than 1,000 items bearing a counterfeit mark;

the offense involves a total retail value of \$1,000.00 or more but less than \$15,000.00 of all items bearing, or services identified by, a counterfeit mark; or

the offense involves a second conviction under this act.

(3) An offense set forth in this act shall be punishable as a crime of the second degree if:

the offense involves 1,000 or more items bearing a counterfeit mark;

the offense involves a total retail value of \$15,000.00 or more of all items bearing, or services identified by a counterfeit mark; or

the offense involves a third or subsequent conviction under this act.

In addition, any person convicted under this act, notwithstanding the provisions of N.J.S.2C:43-3, shall be fined by the court an amount up to threefold the retail value of the items or services

involved, providing that the fine imposed shall not exceed the following amounts: for a crime of the fourth degree, \$100,000.00; for a crime of the third degree, \$250,000.00; and for a crime of the second degree, \$500,000.00.

e. All items bearing a counterfeit mark, and all personal property, including but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, employed or used in connection with a violation of this act, shall be subject to forfeiture in accordance with the procedures set forth in chapter 64 of Title 2C of the New Jersey Statutes.

f. For purposes of this act:

(1) the quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses;

(2) any State or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

g. Conviction for an offense under this act does not preclude the defendant's liability for the civil remedy available pursuant to section 2 of P.L. 1987, c.454 (C.56:3-13.16).

2C:64-1 Property subject to forfeiture.

2C:64-1. Property Subject to Forfeiture.

a. Any interest in the following shall be subject to forfeiture and no property right shall exist in them:

(1) Controlled dangerous substances, firearms which are unlawfully possessed, carried, acquired

or used, illegally possessed gambling devices, untaxed cigarettes, untaxed special fuel, unlawful sound recordings and audiovisual works and items bearing a counterfeit mark. These shall be designated prima facie contraband.

(2) All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, or buildings or premises maintained for the purpose of committing offenses against the State.

(3) Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise.

(4) Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as defined by subsection a. (1), proceeds of illegal gambling, prostitution, bribery and extortion.

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer as evidence pending a criminal prosecution pursuant to section 2C:64-4 or, when no criminal proceeding is instituted, upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

c. For the purposes of this section:

Items bearing a counterfeit mark means items bearing a counterfeit mark as defined in N.J.S.2C:21-32.

Unlawful sound recordings and audiovisual works means sound recordings and audiovisual works as those terms are defined in N.J.S.2C:21-21 which were produced in violation of N.J.S.2C:21-21.

Untaxed special fuel means diesel fuel, No. 2 fuel oil and kerosene on which the motor fuel tax imposed pursuant to R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or transferred in this State in a manner not authorized pursuant to R.S.54:39-1 et seq. or P.L. 1938, c.163 (C.56:6-1 et seq.).