

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 338

Session of
1985

INTRODUCED BY SWEET AND PICCOLA, FEBRUARY 13, 1985

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 13, 1985

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for offenses relating to
3 theft, fraudulent use and forgery of payment devices; further
4 providing for municipal regulation of firearms and
5 ammunition; and defining the offense of unlawful duplication
6 of keys.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Chapter 41 of Title 18 of the Pennsylvania
10 Consolidated Statutes is amended by adding a subchapter heading
11 to read:

12 CHAPTER 41

13 FORGERY AND FRAUDULENT PRACTICES

14 SUBCHAPTER A

15 GENERAL PROVISIONS

16 * * *

17 Section 2. Section 4106 of Title 18 of is amended to read:

18 § 4106. [Credit cards] Payment devices.

19 (a) Offense defined.--A person commits an offense if he:

1 (1) uses a [credit card] payment device for the purpose
2 of obtaining property or services with knowledge that:

3 (i) the [card] payment device is stolen, forged or
4 fictitious;

5 (ii) the [card] payment device belongs to another
6 person who has not authorized its use;

7 (iii) the [card] payment device has been revoked or
8 canceled; or

9 (iv) for any other reason his use of the [card]
10 payment device is unauthorized by the issuer or the
11 person to whom issued; or

12 (2) makes, sells, gives, or otherwise transfers to
13 another, or offers or advertises, or aids and abets any other
14 person to use a [credit card] payment device with the
15 knowledge or reason to believe that it will be used to obtain
16 property or services without payment of the lawful charges
17 therefor; or

18 (3) publishes a [credit card] payment device or code of
19 an existing, canceled, revoked, expired, or nonexistent
20 [credit card] payment device, or the numbering or coding
21 which is employed in the issuance of [credit cards] payment
22 devices, with knowledge or reason to believe that it will be
23 used to avoid the payment for any property or services.

24 (b) Defenses.--It is a defense to prosecution under
25 [subparagraph] subsection (a)(1)(iv) [of this section], if the
26 actor proves by a preponderance of the evidence that he had the
27 intent and ability to meet all obligations to the issuer arising
28 out of his use of the [card] payment device.

29 (c) Grading.--An offense under this section falls within the
30 following classifications depending on the value of the property

1 or service secured or sought to be secured by means of the
2 [credit card] payment device:

3 (1) if the value involved exceeds \$500, the offense
4 constitutes a felony of the third degree; or

5 (2) if the value involved was \$50 or more but less than
6 \$500, the offense constitutes a misdemeanor of the second
7 degree; or

8 (3) if the value involved was less than \$50, the offense
9 constitutes a summary offense.

10 Amounts involved in unlawful use of a [credit card] payment
11 device pursuant to one scheme or course of conduct, whether from
12 the same issuers or several issuers, may be aggregated in
13 determining the classification of the offense.

14 (d) Definitions.--As used in this section the following
15 words and phrases shall have the meanings given to them in this
16 subsection:

17 ["Credit card." A writing or number or other evidence of an
18 undertaking to pay for property or services delivered or
19 rendered to or upon the order of a designated person or bearer.]

20 "Payment device." Any card, plate, code, account number or
21 other means of account access that can be used, alone or in
22 conjunction with another payment device, to obtain money, goods,
23 services or any other thing of value, or for the purpose of
24 initiating a transfer of funds (other than a transfer originated
25 solely by paper instrument).

26 "Publishes." The communication of information to any one or
27 more persons, either orally in person, or by telephone, radio or
28 television or in a writing of any kind, including without
29 limitation a letter or memorandum, circular or handbill,
30 newspaper or magazine article, or book.

1 (e) Venue.--Any offense committed under subsection (a)(1)
2 [of this section] may be deemed to have been committed at either
3 the place where the attempt to obtain property or services is
4 made, or at the place where the property or services were
5 received or provided, or at the place where the lawful charges
6 for said property or services are billed.

7 Section 3. Chapter 41 of Title 18 is amended by adding a
8 subchapter to read:

9 SUBCHAPTER B

10 PAYMENT DEVICES

11 Sec.

12 4131. Definitions.

13 4132. Providing false information.

14 4133. Possession of payment device forgery equipment.

15 4134. Unlawful disclosure of payment device number.

16 4135. Application to criminal cases.

17 § 4131. Definitions.

18 The following words and phrases when used in this subchapter
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Issuer." The business organization or financial institution
22 or its duly authorized agent which issues a payment device.

23 "Payment device." A card, plate, code, account number or
24 other means of account access that can be used, alone or in
25 conjunction with another payment device, to obtain money, goods,
26 services or any other thing of value, or for the purpose of
27 initiating a transfer of funds (other than a transfer originated
28 solely by paper instrument).

29 "Payment device holder." The person or organization named on
30 the face of a payment device or authorized user to whom or for

1 whose benefit the payment device is issued by an issuer.

2 § 4132. Providing false information.

3 (a) Offense defined.--A person commits the crime of
4 providing false information if, upon application for a payment
5 device to an issuer, he knowingly makes or causes to be made a
6 false statement or report relative to his name, occupation,
7 financial condition, assets or liabilities or willfully and
8 substantially overvalues any assets or willfully omits or
9 substantially undervalues any indebtedness for the purpose of
10 influencing the issuer to issue a payment device.

11 (b) Grading.--A violation of this section constitutes a
12 misdemeanor of the third degree.

13 (c) Defense.--It is a defense to a prosecution under this
14 section if, at the time of application, the defendant was not
15 given written notice to the effect that false statements made in
16 applying for a payment device were punishable as provided by
17 this section.

18 (d) Venue.--An offense committed under this section may be
19 deemed to have been committed at either the place where the
20 attempt to obtain property or services is made, or at the place
21 where the property or services were received or provided, or at
22 the place where the lawful charges for the property or services
23 are billed.

24 § 4133. Possession of payment device forgery equipment.

25 (a) Offense defined.--A person commits the crime of
26 possession of payment device forgery equipment if he:

27 (1) is not the payment device holder and possesses two
28 or more incomplete payment devices with intent to complete
29 them without the consent of the issuer;

30 (2) possesses machinery, plates or any other contrivance

1 designed to reproduce instruments purporting to be payment
2 devices of an issuer who has not consented to the preparation
3 of payment devices; or

4 (3) is not the payment device holder and has in his
5 possession or under his control payment devices issued in two
6 or more different names.

7 (b) Incomplete payment device.--A payment device is
8 incomplete if part of the matter, other than the signature of
9 the payment device holder, which an issuer requires to appear on
10 the payment device before it can be used by a payment device
11 holder, has not yet been stamped, embossed, imprinted, encoded
12 or written upon.

13 (c) Grading.--A violation of this section constitutes a
14 felony of the third degree.

15 § 4134. Unlawful disclosure of payment device number.

16 (a) Offense defined.--A person commits the crime of unlawful
17 disclosure of a payment device number if he discloses the number
18 and is not:

19 (1) The payment device holder involved or any person
20 authorized by the payment device holder to use the payment
21 device number.

22 (2) Disclosing a payment device number:

23 (i) In order to process or collect any amount which
24 was authorized by the payment device holder to be charged
25 against the payment device number.

26 (ii) In order to collect any debt for which the
27 payment device holder, or any person authorized by the
28 payment device holder to use the payment device number,
29 gave the payment device number for purposes of
30 identification.

1 (3) A consumer reporting agency as defined by the
2 Federal Fair Credit Reporting Act (Public Law 91-508, 15
3 U.S.C. § 1681 et seq.).

4 (4) Disclosing a credit card or payment device number to
5 an individual who has given reasonable assurance that the
6 number will be used solely for the legitimate business
7 purposes and not to defraud the card holder or any other
8 person.

9 (b) Grading.--A violation of this section constitutes a
10 misdemeanor of the third degree.

11 (c) Defense.--It is a defense to a prosecution under
12 subsection (a) if the person reveals the payment device number
13 to the payment device holder involved.

14 § 4135. Application to criminal cases.

15 The term "payment devices" as defined in sections 4106(d)
16 (relating to payment devices) and 4131 (relating to definitions)
17 shall apply only to criminal cases arising under this title and
18 not to any contractual or regulatory matter relating to payment
19 device transactions between payment device holders, providers of
20 goods and services and banks and other financial institutions.

21 Section 4. Title 18 is amended by adding a section to read:

22 § 5111. Unlawful duplication of keys.

23 (a) Offense defined.--A person commits an offense if he,
24 without permission from authorized personnel, duplicates,
25 manufactures or otherwise produces a key from a key which has
26 imprinted on it the following:

27 (1) The words "Do not duplicate" or "Unlawful to
28 duplicate."

29 (2) A symbol or other marking indicating ownership by
30 the Commonwealth, an institution of the State System of

1 Higher Education, a State-related institution, a State-aided
2 institution, a political subdivision or a municipal authority
3 of this Commonwealth.

4 (b) Grading.--An offense under this section is a summary
5 offense for the first offense. For the second or subsequent
6 offense, the offense is a misdemeanor of the third degree.

7 (c) Definition.--As used in this section, the term "State-
8 related institution" means The Pennsylvania State University,
9 University of Pittsburgh, Temple University, Lincoln University
10 and their branch campuses, and any institution which is
11 hereafter designated "State-related" by the Commonwealth.

12 Section 5. Section 6120 of Title 18 is amended to read:

13 § 6120. Limitation on municipal regulation of firearms and
14 ammunition.

15 (a) General rule.--No county, municipality or township may
16 in any manner regulate the lawful ownership, possession,
17 transfer or transportation of firearms, ammunition or ammunition
18 components when carried or transported for purposes not
19 prohibited by the laws of this Commonwealth.

20 (b) Definition.--For the purposes of this section the term
21 "firearms" shall not include "air rifles" as defined in section
22 6304 (relating to sale and use of air rifles).

23 Section 6. This act shall take effect in 60 days.