

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 744

H. P. 563

House of Representatives, February 11, 1969

Referred to Committee on Judiciary. Sent up for concurrence and 1,000 ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Rideout of Manchester.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Relating to Credit Card Crimes.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 17, §§ 1621-1622, repealed. Sections 1621 and 1622 of Title 17 of the Revised Statutes are repealed.

Sec. 2. R. S., T. 17, §§ 1624-1634, additional. Title 17 of the Revised Statutes is amended by adding 11 new sections, 1624 to 1634, to read as follows:

§ 1624. Definitions

1. **Cardholder.** "Cardholder" or "holder of a card" means the person 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.** "Credit card" means any instrument or device, whether known as a credit 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.

3. **Expired credit card.** "Expired credit card" means a credit card which is no longer valid because the term shown on it has elapsed.

4. **Issuer.** "Issuer" means the person who issues a credit card or his duly authorized agent.

5. **Participating party.** "Participating party" means a person or any duly authorized agent of such person, who is obligated by contract to acquire from another person providing money, goods, services or anything else of

value, a sales slip, sales draft or instrument for the payment of money, evidencing a credit card transaction, and from whom, directly or indirectly, the issuer is obligated by contract to acquire such sales slip, sales draft, instrument for the payment of money and the like.

6. **Receives.** "Receives" or "receiving" means acquiring possession, custody or control.

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 **Revoked credit card.** "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

§ 1625. False statement as to financial condition or identity

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, or his financial condition or that of any other person, for the purpose of procuring the issuance of a credit card, violates this section and is subject to the penalties set forth in section 1633, subsection 1.

§ 1626. Theft of credit card; forgery

1. **Theft by taking or retaining possession of card taken.** A person who takes a credit card from the person, possession, custody or control of another without the consent of the cardholder or of the issuer 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 credit card theft and is subject to the penalties set forth in section 1633, subsection 1. Taking a credit card without consent includes obtaining it by conduct defined or known as statutory larceny, common law larceny by trespassory taking, common law larceny by trick, embezzlement or obtaining property by false pretense, false promise or extortion.

A person who has in his possession or under his control credit cards issued in the names of 2 or more other persons is presumed to have violated this subsection.

2. **Theft of credit card lost, mislaid or delivered by mistake.** 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, custody or control 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 credit card theft and is subject to the penalties set forth in section 1633, subsection 1.

3. **Purchase or sale of credit card of another.** 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 violates this subsection and is subject to the penalties set forth in section 1633, subsection 1.

4. **Obtaining control of credit card as security for debt.** A person who, with intent to defraud the issuer, a participating party, or a person providing

money, goods, services or anything else of value, or any other person, obtains control over a credit card as security for debt violates this subsection and is subject to the penalties set forth in section 1633, subsection 1.

5. Dealing in credit cards of another. A person, other than the issuer, who during any 12-month period, receives credit cards issued in the names of 2 or more persons which he has reason to know were taken or retained under circumstances which constitute credit card theft or a violation of section 1625 or subsection 3 or 4 of this section violates this subsection and is subject to the penalties set forth in section 1633, subsection 2.

6. Forgery of credit card. A person who, with intent to defraud a purported issuer, a participating party, or a person 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 credit card forgery and is subject to the penalties set forth in section 1633, subsection 2. A person other than the purported issuer who possesses 2 or more credit cards which are falsely made or falsely embossed is presumed to have violated this subsection. 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.

7. Signing credit card of another. A person other than the cardholder or a person authorized by him who, with intent to defraud the issuer, a participating party, or a person providing money, goods, services or anything else of value, or any other person, signs a credit card, violates this subsection and is subject to the penalties set forth in section 1633, subsection 1. A person who possesses 2 or more credit cards which are so signed is presumed to have violated this subsection.

§ 1627. Fraudulent use of illegally obtained credit card,
forged credit card or expired credit card

A person, who, with intent to defraud the issuer, a participating party, or a person providing money, goods, services or anything else of value, or any other person, uses for the purpose of obtaining money, goods, services or anything else of value a credit card obtained or retained in violation of section 1626 or a credit card which he knows is forged, expired or revoked, or 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, or uses a credit card obtained or retained in violation of section 1626 or a credit card which he knows is forged, expired or revoked as authority or identification to cash or to attempt to cash or otherwise to negotiate or transfer or to attempt to negotiate or transfer a check or other order

for the payment of money, whether or not negotiable, if said negotiation or transfer or attempt to negotiate or transfer would constitute a crime under section 1605 violates this section and is subject to the penalties set forth in section 1633, subsection 1, if the value of all money, goods, services and other things of value obtained in violation of this section does not exceed \$500 in any 6-month period; and is subject to the penalties set forth in section 1633, subsection 2, if such value does exceed \$500 in any 6-month period. 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.

§ 1628. Fraud by person authorized to provide goods or services

1. Illegally obtained or illegally possessed credit card; forged, revoked or expired credit card. A person who is authorized by an issuer or a participating party to furnish money, goods, services or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer, or participating party, the cardholder, or any other person furnishes money, goods, services or anything else of value upon presentation of a credit card obtained or retained in violation of section 1626 or a credit card which he knows is forged, expired or revoked violates this subsection and is subject to the penalties set forth in section 1633, subsection 1, if the value of all money, goods, services and other things of value furnished in violation of this subsection does not exceed \$500 in any 6-month period; and is subject to the penalties set forth in section 1633, subsection 2, if such value does exceed \$500 in any 6-month period.

2. Misrepresentation to issuer. A person who is authorized by an issuer or a participating party to furnish money, goods, services or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer, a participating party, the cardholder, or any other person fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer or participating party that he has furnished violates this section and is subject to the penalties set forth in section 1633, subsection 1, if the difference between the value of all money, goods, services and anything else of value actually furnished and the value represented to the issuer or participating party to have been furnished does not exceed \$500 in any 6-month period; and is subject to the penalties set forth in section 1633, subsection 2, if such difference does exceed \$500 in any 6-month period.

§ 1629. Possession of machinery, plates or other contrivance or incomplete credit cards

A person other than the cardholder having under his possession, custody or control 2 or more incomplete credit cards, or possessing a purported distinctive element of a credit card, with intent to complete such incomplete credit

cards or to utilize such purported distinctive element in the production or reproduction of any credit card, without the consent of the issuer, or a person having under his possession, custody or control, with knowledge of its character, a distinctive element of any credit card or any machinery, plates or any contrivance designed to produce or reproduce instruments purporting to be the credit cards of an issuer, or of any issuer in a group of issuers utilizing a common distinctive element or elements in credit cards issued by all members of such group, who has not consented to the production or reproduction of such cards, violates this section and is subject to the penalties set forth in section 1633, subsection 2. A credit card is "incomplete" if part of the matter other than the signature of the cardholder, which an issuer, or any issuer in a group of issuers utilizing a common distinctive element or elements in credit cards issued by all members of such group, 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. A distinctive element of a credit card is any material or component used in the fabrication of credit cards, which by virtue of such element's chemical or physical composition, color or design, is unique to the credit cards issued by a particular issuer or group of issuers utilizing a common distinctive element or elements in credit cards issued by all members of such group.

§ 1630. Receipt of money, goods, services or anything else of value

A person who receives money, goods, services or anything else of value obtained in violation of section 1627, knowing or believing the same to have been so obtained violates this section and is subject to the penalties set forth in section 1633, subsection 1. 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 section 1627 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 section 1627.

§ 1631. Defenses not available

In any prosecution for violation of sections 1624 to 1634, the State is not required to establish and it is no defense that a person other than the defendant who violated sections 1624 to 1634 has not been convicted, apprehended or identified; or 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.

§ 1632. Presumptions

When sections 1624 to 1634 established a presumption with respect to any fact which is an element of a crime, it has the following consequences:

1. Presumption to jury. When there is sufficient evidence of the facts which give rise to the presumption to go to the jury, the issue of the existence of the presumed fact must be submitted to the jury, unless the court is satisfied that the evidence as a whole clearly negatives the presumed fact; and

2. Court charge. When the issue of the existence of the presumed fact is submitted to the jury, the court shall charge that while the presumed fact must, on all the evidence, be proved beyond a reasonable doubt, the law declares that the jury may regard the facts giving rise to the presumption as sufficient evidence of the presumed fact.

§ 1633. Penalties

1. One year or \$1,000. A person who is subject to the penalties of this subsection shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both.

2. Three years or \$3,000. A person who is subject to the penalties of this subsection shall be punished by a fine of not more than \$3,000 or by imprisonment for not more than 3 years, or by both.

§ 1634. Construction

Sections 1624 to 1633 shall not be construed to preclude the applicability of any other provision of the criminal law of this State which presently applies or may in the future apply to any transaction which violates sections 1624 to 1633, unless such provision is inconsistent with the terms of sections 1624 to 1633.