

**FRAUDULENT USE OF CREDIT CARD
NUMBER**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Carlene M. Walker

This act modifies the Criminal Code by providing that possession of a financial transaction card number or related information with the intent to defraud is a third degree felony. This act also provides that a person who obtains the encoded information from the strip on a financial transaction card with the intent to use the information to defraud a merchant is guilty of a third degree felony, and that any subsequent violation is a second degree felony.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

76-6-506.3, as last amended by Chapter 191, Laws of Utah 1997

ENACTS:

76-6-506.7, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-6-506.3** is amended to read:

76-6-506.3. Financial transaction card offenses -- Unlawful acquisition, possession, or transfer of card.

Any person is guilty of a third degree felony who:

(1) acquires a financial transaction card from another without the consent of the card holder or the issuer, or, with the knowledge that it has been acquired without consent, and with intent to use it in violation of Section 76-6-506.2;

(2) receives a financial transaction card with intent to use it in violation of Section 76-6-506.2;

(3) sells or transfers a financial transaction card to another person with the knowledge that it will be used in violation of Section 76-6-506.2; [or]

(4) (a) acquires a financial transaction card that the person knows was lost, mislaid, or

delivered under a mistake as to the identity or address of the card holder; and

(b) (i) retains possession with intent to use it in violation of Section 76-6-506.2; or

(ii) sells or transfers a financial transaction card to another person with the knowledge that it will be used in violation of Section 76-6-506.2[-]; or

(5) possesses, sells, or transfers any information necessary for the use of a financial transaction card, including the credit number of the card, the expiration date of the card, or the personal identification code related to the card:

(a) (i) without the consent of the card holder or the issuer; or

(ii) with the knowledge that the information has been acquired without consent of the card holder or the issuer; and

(b) with intent to use the information in violation of Section 76-6-506.2.

Section 2. Section **76-6-506.7** is enacted to read:

76-6-506.7. Obtaining encoded information on a financial transaction card with the intent to defraud the issuer, holder, or merchant.

(1) As used in this section:

(a) "Financial transaction card" or "card" means any credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card, or any other card, issued by an issuer for the use of the card holder in:

(i) obtaining money, goods, services, or anything else of value on credit; or

(ii) certifying or guaranteeing to a merchant the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other thing of value from the merchant.

(b) (i) "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of the owner or operator.

(ii) "Merchant" also means a person:

(A) who receives from a card holder, or a third person the merchant believes to be the

card holder, a financial transaction card or information from a financial transaction card, or what the merchant believes to be a financial transaction card or information from a card; and

(B) who accepts the financial transaction card or information from a card under Subsection (1)(a)(ii)(A) as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other thing of value from the merchant.

(c) "Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe of a different financial transaction card.

(d) "Scanning device" means a scanner, reader, or any other electronic device used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a financial transaction card.

(2) (a) A person is guilty of a third degree felony who uses:

(i) a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a financial transaction card without the permission of the card holder and with intent to defraud the card holder, the issuer, or a merchant; or

(ii) a reencoder to place information encoded on the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe of a different card without the permission of the authorized user of the card from which the information is being reencoded and with the intent to defraud the card holder, the issuer, or a merchant.

(b) Any person who has been convicted previously of an offense under Subsection (2)(a) is guilty of a second degree felony upon a second conviction and any subsequent conviction for the offense.