

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

COMMUNICATIONS FRAUD PENALTY

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David P. Hinkins

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding communications fraud.

Highlighted Provisions:

This bill:

- ▶ modifies the penalties for communications fraud by removing the provision regarding obtaining or attempting to obtain something that does not have monetary value.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-1801, as last amended by Laws of Utah 2006, Chapter 120

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

Section 1. Section **76-10-1801** is amended to read:

76-10-1801. Communications fraud -- Elements -- Penalties.

- (1) Any person who has devised any scheme or artifice to defraud another or to obtain



28 from another money, property, or anything of value by means of false or fraudulent pretenses,
29 representations, promises, or material omissions, and who communicates directly or indirectly
30 with any person by any means for the purpose of executing or concealing the scheme or artifice
31 is guilty of:

32 (a) a class B misdemeanor when the value of the property, money, or thing obtained or
33 sought to be obtained is less than \$300;

34 (b) a class A misdemeanor when the value of the property, money, or thing obtained or
35 sought to be obtained is or exceeds \$300 but is less than \$1,000;

36 (c) a third degree felony when the value of the property, money, or thing obtained or
37 sought to be obtained is or exceeds \$1,000 but is less than \$5,000;

38 (d) a second degree felony when the value of the property, money, or thing obtained or
39 sought to be obtained is or exceeds \$5,000; and

40 [~~(e) a second degree felony when the object of the scheme or artifice to defraud is other
41 than the obtaining of something of monetary value; and]~~

42 [(~~f~~) (e)] a second degree felony when the object or purpose of the scheme or artifice to
43 defraud is the obtaining of sensitive personal identifying information, regardless of the value.

44 (2) The determination of the degree of any offense under Subsection (1) shall be
45 measured by the total value of all property, money, or things obtained or sought to be obtained
46 by the scheme or artifice described in Subsection (1) [~~except as provided in Subsection (1)(e)~~].

47 (3) Reliance on the part of any person is not a necessary element of the offense
48 described in Subsection (1).

49 (4) An intent on the part of the perpetrator of any offense described in Subsection (1) to
50 permanently deprive any person of property, money, or thing of value is not a necessary
51 element of the offense.

52 (5) Each separate communication made for the purpose of executing or concealing a
53 scheme or artifice described in Subsection (1) is a separate act and offense of communication
54 fraud.

55 (6) (a) To communicate as described in Subsection (1) means to:

56 (i) bestow, convey, make known, recount, or impart; [~~t~~]

57 (ii) give by way of information; [~~t~~]

58 (iii) talk over; or [~~t~~]

59 (iv) transmit information.

60 (b) Means of communication include [~~but are not limited to~~] use of the mail, telephone,
61 telegraph, radio, television, newspaper, computer, and spoken and written communication.

62 (7) A person may not be convicted under this section unless the pretenses,
63 representations, promises, or material omissions made or omitted were made or omitted
64 intentionally, knowingly, or with a reckless disregard for the truth.

65 (8) As used in this section, "sensitive personal identifying information" means [~~any of~~
66 ~~the following~~] information regarding an individual's:

67 (a) Social Security number;

68 (b) driver's license number or other government issued identification number;

69 (c) financial account number or credit or debit card number;

70 (d) password or personal identification number or other identification required to gain
71 access to a financial account or a secure website;

72 (e) automated or electronic signature;

73 (f) unique biometric data; or

74 (g) any other information that can be used to gain access to an individual's financial
75 accounts or to obtain goods or services.

Legislative Review Note

as of 1-15-09 2:56 PM

Office of Legislative Research and General Counsel

S.B. 107 - Communications Fraud Penalty Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
