

HOUSE No. 211

By Mr. Casey of Winchester, petition of Paul C. Casey relative to identity fraud. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO IDENTITY FRAUD.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 266 of the General Laws is hereby amended by striking
2 out Section 37E and inserting in its place:

3 (a) For purposes of this section, the following words shall have
4 the following meanings:—

5 “Harass”, willfully and maliciously engage in an act directed at
6 a specific person or persons, or at a specific organization or orga-
7 nizations, which act seriously alarms or annoys such person or
8 persons or any person or persons employed by or associated with
9 such organization or organizations, and would cause a reasonable
10 person to suffer substantial emotional distress.

11 “Identifying information”, any name or number that may be
12 used, alone or in conjunction with any other information, to
13 assume the identity of an individual or organization including any
14 name, address, telephone number, driver’s license number, social
15 security number, place of employment, employee identification
16 number, tax identification number, mother’s maiden name,
17 demand deposit account number, savings account number, credit
18 card number, computer password identification or other identi-
19 fying information.

20 “Organization,” any corporation, partnership, joint venture,
21 firm, sole proprietorship, association of individuals, or any other
22 professional or business entity.

23 “Person with a disability,” a person who is mentally retarded,
24 as defined by section one of chapter one hundred and twenty-
25 three B or who is otherwise mentally or physically disabled and as

26 a result of such mental or physical disability is wholly or partially
27 dependent on another person or persons to meet his daily living
28 needs.

29 “Pose”, to falsely represent oneself, directly or indirectly, as
30 another person, persons, or organization.

31 “Victim”, any person who, or organization that has suffered
32 financial loss or any entity that provided money, credit, goods,
33 services or anything of value and has suffered financial loss as a
34 direct result of the commission or attempted commission of a vio-
35 lation of this section.

36 (b) Whoever, with fraudulent intent, knowingly and intention-
37 ally poses as another person, living or dead, as a representative of
38 an organization, or as being authorized to act on behalf of an orga-
39 nization, and uses such person’s or organization’s identifying
40 information to obtain or to attempt to obtain money, credit, goods,
41 services, anything of value, any identification card or other evi-
42 dence of such person's or organization’s identity, to harass another
43 person or organization, to commit an illegal act, or to avoid identi-
44 fication, apprehension or prosecution for a crime shall be guilty of
45 the crime of identity fraud and shall be punished for an initial
46 offense by a fine of not more than \$5,000 or imprisonment in a
47 house of correction for not more than two and one-half years, or
48 by both such fine and imprisonment and for a second and subse-
49 quent offense by a fine of not more than \$25,000 or imprisonment
50 in the state prison for not more than five years or a house of cor-
51 rection for not more than two and one half years, or both such fine
52 and imprisonment.

53 (c) Whoever, with fraudulent intent, knowingly and intention-
54 ally obtains identifying information about another person, living
55 or dead, or an organization, with the intent to pose as such person,
56 or as a representative of such organization, or as being authorized
57 to act on behalf of an organization in order to obtain money,
58 credit, goods, services, anything of value, any identification card
59 or other evidence of such person’s or organization’s identity, to
60 harass another person or organization, or to avoid identification,
61 apprehension or prosecution for a crime shall be guilty of the
62 crime of identity fraud and shall be punished for an initial offense
63 by a fine of not more than \$5,000 or imprisonment in a house of
64 correction for not more than two and one-half years, or by both

65 such fine and imprisonment and for a second and subsequent
66 offense by a fine of not more than \$25,000 or imprisonment in the
67 state prison for not more than five years or a house of correction
68 for not more than two and one half years, or both such fine and
69 imprisonment.

70 (d) Whoever commits an offense described in this section by
71 using the identifying information of a person sixty-five years or
72 older or a person with a disability shall be punished by a fine of
73 not more than \$10,000 or imprisonment in the state prison for not
74 more than five years, or in jail for not more than two and one half
75 years, or both and for a second and subsequent offense by a fine
76 of not more than \$25,000 or imprisonment in the state prison for
77 not more than ten years or a house of correction for not more than
78 two and one half years, or both such fine and imprisonment.

79 (e) Whoever knowingly and intentionally manufactures, sells,
80 purchases, transfers, gives, trades, loans, delivers, or possesses,
81 five or more items containing the identifying information of the
82 same person or organization, or the identifying information of five
83 or more separate persons or organizations with the intent to
84 commit an offense described in this section or to assist another to
85 commit an offense described in this section shall be guilty of the
86 crime of trafficking in stolen identities and shall be punished by a
87 fine of not more than \$25,000 or imprisonment in the state prison
88 for not more than five years, or in jail for not more than two and
89 one half years, or both and for a second and subsequent offense by
90 a fine of not more than \$50,000 or imprisonment in the state
91 prison for not more than ten years or a house of correction for not
92 more than two and one half years, or both such fine and imprison-
93 ment.

94 (f) The knowledge or intent of the person alleged to have com-
95 mitted any of the crimes within this section may be proved by
96 direct or circumstantial evidence and the testimony of the indi-
97 vidual or a representative on behalf of the organization whose
98 identifying information or item containing identifying information
99 was obtained or used to commit any of the crimes within this
100 section shall not be required to find a person guilty of those
101 crimes.

102 (g) An offense under this section may be prosecuted in any
103 county in which an element of the offense was committed or in the

104 county of residence of the person or organization whose identi-
105 fying information was allegedly used in the commission of the
106 crimes of identity fraud or of trafficking in stolen identities as
107 defined in this section.

108 (h) A person found guilty of violating any provisions of this
109 section shall, in addition to any other punishment, be ordered to
110 make restitution for financial loss sustained by a victim as a result
111 of such violation. Financial loss may include any costs incurred
112 by such victim in correcting the credit history of such victim or
113 any costs incurred in connection with any civil or administrative
114 proceeding to satisfy any debt or other obligation of such victim,
115 including lost wages and attorney's fees.

116 (i) A law enforcement officer may arrest without warrant any
117 person he has probable cause to believe has committed the offense
118 of identity fraud or trafficking in stolen identities as defined in
119 this section.