

LC00272

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

A N A C T

RELATING TO CRIMINAL OFFENSES -- IMPERSONATION AND IDENTITY FRAUD

Introduced By: Senators Ciccone, Badeau, Connors, Lanzi, and Algieri

Date Introduced: February 11, 2004

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-49.1-2, 11-49.1-3 and 11-49.1-4 of the General Laws in
2 Chapter 11-49.1 entitled "Impersonation and Identity Fraud" are hereby amended to read as
3 follows:

4 **11-49.1-2. Definitions.** -- As used in this chapter:

5 (1) "Document-making implement" means any implement, impression, electronic device,
6 or computer hardware or software, that is specifically configured or primarily used for making an
7 identification document, a false identification document, or another document-making
8 implement;

9 (2) "Identification document" means a document made or card issued by or under the
10 authority of the United States Government, a state, political subdivision of a state, a foreign
11 government, political subdivision of a foreign government, an international governmental or an
12 international quasi-governmental organization which, when completed with information
13 concerning a particular individual, is of a type intended or commonly accepted for the purpose of
14 identification of individuals;

15 (3) "Means of identification" means any name or number that may be used, alone or in
16 conjunction with any other information, to identify a specific individual, including any:

17 (i) Name, social security number, date of birth, official state or government issued
18 driver's license or identification number, alien registration number, government passport number,
19 employer or taxpayer identification number;

1 (ii) Unique biometric data, such as fingerprint, voice print, retina or iris image, or other
2 unique physical representation;

3 (iii) Unique electronic identification number, address, or routing code; or

4 (iv) Telecommunication identifying information or access device as defined in 18 U.S.C.
5 section 1029(e).

6 (4) "Produce" means to manufacture, alter, authenticate, or assemble an identification
7 document;

8 (5) "State" includes any state of the United States, the District of Columbia, the
9 Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the
10 United States; and

11 (6) "Financial information" means any of the following information identifiable to an
12 individual that concerns the amount and/or condition of an individual's assets, liabilities or credit:

13 (i) Account numbers and balances;

14 (ii) Transactional information concerning any account; or

15 (iii) Codes, passwords, social security numbers, tax identification numbers, driver's
16 license numbers or any other information held for the purpose of account access or transaction
17 initiation.

18 (7) "Access device" means a unique electronic identification number, address,
19 description, or routing code or a device containing a unique electronic identification number,
20 address, description, or routing code issued to an individual which permits or facilitates entry into
21 a facility or computer or provides access to the financial resources, including, but not limited to,
22 the credit resources of the individual to whom the device or card is issued;

23 (8) "Description" means any identifying information about a person, including, but not
24 limited to, date of birth, place of birth, address, social security number, height, weight, hair or eye
25 color, or unique biometric data such as fingerprint, voice print, retina or iris image, DNA profile,
26 or other unique physical representation;

27 (9) "Government agency" means any agency of the executive, legislative, or judicial
28 branch of government or political subdivision or authority thereof of this state, any other state, the
29 United States, or any foreign government or international governmental or quasi-governmental
30 agency recognized by the United States or by any of the several states;

31 (10) "Business victim" means any individual or entity that provided money, credit, goods,
32 services, or anything of value to someone other than the intended recipient where the intended
33 recipient has not given permission for the actual recipient to receive it and the individual or entity
34 that provided money, credit, goods, services, or anything of value has suffered financial loss as a

direct result of the commission or attempted commission of a violation of this article;

(11) "Consumer victim" means any individual whose personal identifying information has been obtained, compromised, used, or recorded in any manner without the permission of that individual; and

(12) Resources" includes, but is not limited to:

(i) A person's or entity's credit, credit history, credit profile, and credit rating;

(ii) United States currency, securities, real property, and personal property of any kind;

(iii) Credit, charge, and debit accounts;

(iv) Loans and lines of credit;

(v) Documents of title and other forms of commercial paper recognized under Title 11;

(vi) Any account, including a safety deposit box, with a financial institution as defined by Code section 7-1-4, including a national bank, federal savings and loan association, or federal credit union or a securities dealer licensed by the secretary of state or the federal securities and exchange commission; and

(vii) A person's personal history, including, but not limited to, records of such person's driving records; criminal, medical, or insurance history; education; or employment.

11-49.1-3. ~~Identity fraud.~~ False identification documents.— (a) Any person who shall: (1) knowingly and without lawful authority produce, manufacture, alter, sell, distribute, deliver, possess with intent to sell, deliver, or distribute, or offer for sale, delivery, or distribution an identification document or a false, fraudulent, or fictitious identification document, or any identification document that contains any false, fictitious, or fraudulent statement or history; (2) knowingly transfer an identification document or a false identification document knowing that the document was stolen or produced without lawful authority; (3) knowingly possess with intent to use unlawfully or transfer unlawfully five (5) or more identification documents (other than those issued lawfully for the use of the possessor) or false identification documents; (4) knowingly possess an identification document (other than one issued lawfully for the use of the possessor) or a false identification document, or financial information with the intent that the document or financial information be used to defraud the United States, the State of Rhode Island, any political subdivision of it or any public or private entity; (5) knowingly transfer, or possess a document-making implement with the intent that the document-making implement will be used in the production of a false identification document or another document-making implement which will be so used; (6) knowingly possess a false identification document that is or appears to be a genuine identification document of the United States, the State of Rhode Island or any political subdivision of it or any public or private entity which is stolen or produced without lawful

1 authority knowing that the document was stolen or produced without such authority; or (7)
2 knowingly transfer or use with intent to defraud, without lawful authority, a means of
3 identification or financial information of another person living or dead, with the intent to commit,
4 or to aid or abet, any unlawful activity that constitutes a violation of federal, state or local law;
5 shall be guilty of a felony and shall be subject to the penalties set forth in section 11-49.1-4.

6 (b) The provisions of this section shall not apply to any person who has not reached his
7 or her twenty-first (21st) birthday who misrepresents or misstates his or her age through the
8 presentation of any document in order to enter any premises licensed for the retail sale of
9 alcoholic beverages for the purpose of purchasing or having served or delivered to him or her
10 alcoholic beverages or attempting to purchase or have another person purchase for him or her any
11 alcoholic beverage pursuant to section 3-8-6.

12 **11-49.1-4. Penalties.** – (a) Every person who violates the provisions of section 11-49.1-3
13 shall be imprisoned for not more than three (3) years and may be fined not more than five
14 thousand dollars (\$5,000), or both, for a first conviction.

15 (b) Every person who violates the provisions of section 11-49.1-3 may be imprisoned for
16 not less than three (3) years nor more than five (5) years and shall be fined not more than ~~ten~~
17 fifteen thousand dollars ~~(\$10,000)~~ (\$15,000), or both, for a second conviction.

18 (c) Every person who violates the provisions of section 11-49.1-3 shall be imprisoned for
19 not less than five (5) years nor more than ten (10) years and shall be fined not less than ~~fifteen~~
20 twenty-five thousand dollars ~~(\$15,000)~~ (\$25,000), or both, for a third or subsequent conviction.

21 SECTION 2. Chapter 11-49.1 of the General Laws entitled "Impersonation and Identity
22 Fraud" is hereby amended by adding thereto the following section:

23 **11-49.1-6. Identity fraud.** – (a) A person commits the offense of identity fraud when
24 without the authorization or permission of a person with the intent unlawfully to appropriate
25 resources of or cause physical harm to that person, or of any other person, to his or her own use or
26 to the use of a third party he or she;

27 (i) Obtains or records identifying information of a person which would assist in accessing
28 the resources of that person or any other person; or

29 (ii) Accesses or attempts to access the resources of a person through the use of
30 identifying information.

31 (b) Every person who violates the provisions of this section shall be punishable by
32 imprisonment for not less than one nor more than ten (10) years, or a fine not to exceed one
33 hundred thousand dollars (\$100,000), or both.

34 (c) Every person who violates the provisions of this section shall be imprisoned for not

1 less than three (3) nor more than fifteen (15) years, or fined not more than two hundred fifty
2 thousand dollars (\$250,000), or both.

3 (d) Every person found guilty of a violation of this section may be ordered by the court to
4 make restitution to any consumer victim or any business victim of such fraud.

5 SECTION 3. This act shall take effect upon passage and shall apply to those offenses
6 which occur after that date.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL OFFENSES -- IMPERSONATION AND IDENTITY FRAUD

- 1 This act would increase the penalties for offenses relating to false identification
2 documents and would establish separate penalties for the offense of identity fraud.
3 This act would take effect upon passage and would apply to those offenses which occur
4 after that date.

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