

Utah Criminal Code

Section 76-6-506 Financial transaction card offenses -- Definitions.

For purposes of this part:

(1) "Authorized credit card merchant" means a person as defined in Section 68-3-12 who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a financial transaction card by a card holder and to present valid credit card sales drafts to the issuer for payment.

(2) "Automated banking device" means any machine which, when properly activated by a financial transaction card or a personal identification code, may be used for any of the purposes for which a financial transaction card may be used.

(3) "Card holder" means any person or organization named on the face of a financial transaction card to whom or for whose benefit a financial transaction card is issued by an issuer.

(4) "Credit card sales draft" means any sales slip, draft, or other written or electronic record of a sale of money, goods, services, or anything else of value made or purported to be made to or at the request of a card holder with a financial transaction card, financial transaction card credit number, or personal identification code, whether the record of the sale or purported sale is evidenced by a sales draft, voucher, or other similar document in writing or electronically recorded and transmitted.

(5) "Financial transaction card" means:

(a) 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 obtaining money, goods, services, or anything else of value on credit, or in certifying or guaranteeing to a person or business 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 payable to the order of the person or business; or

(b) any instrument or device used in providing the card holder access to a demand or time deposit account for the purpose of making deposits of money or checks in the account, or withdrawing funds from the account in the form of money, money orders, travelers' checks or other form representing value, or transferring funds from any demand or time deposit account to any credit card account in full or partial satisfaction of any outstanding balance existing in the credit card account.

(6) "Issuer" means a business organization or financial institution or its agent that issues a financial transaction card.

(7) "Personal identification code" means any numerical or alphabetical code assigned to a card holder by the issuer to permit the authorized electronic use of his financial transaction card.

Section 76-6-506.1 Financial transaction card offenses – Falsely making, coding, or signing card – Falsely signing evidence of card transaction.

Any person is guilty of a third degree felony who, with intent to defraud:

(1) counterfeits, falsely makes, embosses, or encodes magnetically or electronically any financial transaction card;

(2) knowingly possesses any financial transaction card produced or altered as described in Subsection (1);

(3) uses through carbon or other impressions or copies of credit card sales drafts or through any other means, the account number or personal identification code of a card holder in the creation of a fictitious or counterfeit credit card sales draft; or

(4) signs the name of another or a fictitious name to a financial transaction card, credit card sales draft, or any instrument for the payment of money which evidences a financial transaction card transaction.

Section 76-6-506.2 Financial transaction card offenses – Unlawful use of card or automated banking device – False application for card.

It is unlawful for any person to:

(1) knowingly, with intent to defraud, obtain or attempt to obtain credit or purchase or attempt to purchase goods, property, or services, by the use of a false,

fictitious, altered, counterfeit, revoked, expired, stolen, or fraudulently obtained financial transaction card, by any financial transaction card credit number, personal identification code, or by the use of a financial transaction card not authorized by the issuer or the card holder;

(2) use a financial transaction card, with intent to defraud, to knowingly and willfully exceed the actual balance of a demand or time deposit account;

(3) use a financial transaction card, with intent to defraud, to willfully exceed an authorized credit line by \$500 or more, or by 50% of such line, whichever is greater;

(4) willfully, with intent to defraud, deposit into his or any other account by means of an automated banking device a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other similar document;

(5) make application for a financial transaction card to an issuer, while knowingly making or causing to be made a false statement or report relative to his name, occupation, financial condition, assets, or to willfully and substantially undervalue or understate any indebtedness for the purposes of influencing the issuer to issue the financial transaction card; or

(6) knowingly, with intent to defraud any authorized credit card merchant, card holder, or issuer, sell or attempt to sell credit card sales drafts to an authorized credit card merchant or any other person or organization, for any consideration whether at a discount or otherwise, or present or cause to be presented to the issuer or an authorized credit card merchant, for payment or collection, any such credit card sales draft, if:

(i) the draft is counterfeit or fictitious;

(ii) the purported sales evidenced by any such credit card sales draft did not take place;

(iii) the purported sale was not authorized by the card holder;

(iv) the items or services purported to be sold as evidenced by the credit card sales drafts are not delivered or rendered to the card holder or person intended to receive them; or

(v) when delivered or rendered, the goods or services are materially different or of materially lesser value or quality than represented by the seller or his agent to the purchaser, or have substantial discrepancies from goods or services impliedly represented by the purchase price when compared with the actual goods or services delivered or rendered.

Section 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;

(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 76-6-506.4 Financial transaction card offenses – Property obtained by unlawful conduct.

It is unlawful for any person to receive, retain, conceal, possess, or dispose of personal property, cash, or other form representing value, if he knows or has reason to believe the property, cash, or other form representing value has been obtained through unlawful conduct described in Section 76-6-506.1, 76-6-506.2, or 76-6-506.3.

Section 76-6-506.5 Financial transaction card offenses -- Classification -- Multiple violations.

(1) Any person found guilty of unlawful conduct described in Section 76-6-506.2, 76-6-506.4, or 76-6-506.6 shall be punished for:

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

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

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

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

(2) Multiple violations of Subsection 76-6-506.2(1), Sections 76-6-506.4, and 76-6-506.6 may be aggregated into a single offense, and the degree of the offense is determined by the total value of all property, money, or things obtained or sought to be obtained through the multiple violations.

(3) The court shall make appropriate findings in any prosecution under this section that the card holder did not commit the crime if:

(a) another person uses the financial transaction card without the card holder's consent; and

(b) that person commits a crime in addition to a financial transaction card offense with the card holder's financial transaction card.

Section 76-6-506.6 Financial transaction card offenses -- Unauthorized factoring of credit card sales drafts.

It is unlawful for any person, knowingly, with intent to defraud, acting without the express authorization of the issuer, to employ, solicit, or otherwise cause an authorized credit card merchant, or for the authorized credit card merchant himself, to present any credit card sales draft to the issuer for payment pertaining to any sale or purported sale of goods or services which was not made by the authorized credit card merchant in the ordinary course of business.

Section 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.