

LEGISLATIVE BILL 379

Approved by the Governor March 7, 1994

Introduced by Abboud, 12; Bromm, 23

AN ACT relating to crimes and punishment; to amend section 28-620, Reissue Revised Statutes of Nebraska, 1943; to provide for prosecution and the limitation of prosecution for certain offenses as prescribed; to repeal the original section; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 28-620, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-620. (1) A person commits the offense of unauthorized use of a financial transaction device if such person uses such device in an automated banking device, to imprint a sales form, or in any other manner:

(a) For the purpose of obtaining money, credit, property, or services or for making financial payment, with intent to defraud;

(b) With notice that the financial transaction device is expired, revoked, or canceled;

(c) With notice that the financial transaction device is forged, altered, or counterfeited; or

(d) When for any reason his or her use of the financial transaction device is unauthorized either by the issuer or by the account holder.

(2) For purposes of this section, notice shall mean either notice given in person or notice given in writing to the account holder, by registered or certified mail, return receipt requested, duly stamped and addressed to such account holder at his or her last address known to the issuer. Such notice shall be evidenced by a returned receipt signed by the account holder which shall be prima facie evidence that the notice was received.

(3) Any person committing the offense of unauthorized use of a financial transaction device shall be guilty of:

(a) A Class II misdemeanor if the total value of the money, credit, property, or services obtained or the financial payments made are less than seventy-five dollars within a six-month period from the date of the first unauthorized use;

(b) A Class I misdemeanor if the total value of the money, credit, property, or services obtained or the financial payments made are seventy-five dollars or more but less than three hundred dollars within a six-month period from the date of the first unauthorized use;

(c) A Class IV felony if the total value of the money, credit, property, or services obtained or the financial payments made are three hundred dollars or more but less than one thousand dollars within a six-month period from the date of the first unauthorized use; and

(d) A Class III felony if the total value of the money, credit, property, or services obtained or the financial payments made are one thousand dollars or more within a six-month period from the date of the first unauthorized use.

(4) Any prosecution under this section may be conducted in any county where the person committed the offense or any one of a series of offenses to be aggregated.

(5) Once aggregated and filed, no separate prosecution for an offense arising out of the same series of offenses aggregated and filed shall be allowed in any county.

Sec. 2. That original section 28-620, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.