

SENATE BILL No. 382

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5; IC 35-43-5.

Synopsis: Stored value card fraud. Defines the term "stored value card". Provides that a person who, with intent to defraud, obtains property by using a stored value card, knowing that the stored value card: (1) was unlawfully obtained or retained; or (2) is forged, revoked, or expired; commits a Level 6 felony. Makes conforming amendments.

Effective: July 1, 2019.

Koch

January 14, 2019, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 382

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-31.5-1-314.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: **Sec. 314.5. "Stored value card" has**
4 **the meaning set forth in IC 35-43-5-1(r).**

5 SECTION 2. IC 35-31.5-2-322, AS ADDED BY P.L.114-2012,
6 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2019]: Sec. 322. "Synthetic identifying information", for
8 purposes of IC 35-43-5, has the meaning set forth in ~~IC 35-43-5-1(r).~~
9 **IC 35-43-5-1(s).**

10 SECTION 3. IC 35-31.5-2-344, AS ADDED BY P.L.114-2012,
11 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2019]: Sec. 344. "Utility", for purposes of IC 35-43-5, has the
13 meaning set forth in ~~IC 35-43-5-1(s).~~ **IC 35-43-5-1(t).**

14 SECTION 4. IC 35-31.5-2-356, AS ADDED BY P.L.114-2012,
15 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2019]: Sec. 356. "Written instrument", for purposes of
17 IC 35-43-5, has the meaning set forth in ~~IC 35-43-5-1(t).~~



1 **IC 35-43-5-1(u).**

2 SECTION 5. IC 35-43-5-1, AS AMENDED BY P.L.43-2017,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2019]: Sec. 1. (a) The definitions set forth in this section apply
5 throughout this chapter.

6 (b) "Claim statement" means an insurance policy, a document, or a
7 statement made in support of or in opposition to a claim for payment
8 or other benefit under an insurance policy, or other evidence of
9 expense, injury, or loss. The term includes statements made orally, in
10 writing, or electronically, including the following:

- 11 (1) An account.
- 12 (2) A bill for services.
- 13 (3) A bill of lading.
- 14 (4) A claim.
- 15 (5) A diagnosis.
- 16 (6) An estimate of property damages.
- 17 (7) A hospital record.
- 18 (8) An invoice.
- 19 (9) A notice.
- 20 (10) A proof of loss.
- 21 (11) A receipt for payment.
- 22 (12) A physician's records.
- 23 (13) A prescription.
- 24 (14) A statement.
- 25 (15) A test result.
- 26 (16) X-rays.

27 (c) "Coin machine" means a coin box, vending machine, or other
28 mechanical or electronic device or receptacle designed:

- 29 (1) to receive a coin, bill, or token made for that purpose; and
- 30 (2) in return for the insertion or deposit of a coin, bill, or token
31 automatically:
 - 32 (A) to offer, provide, or assist in providing; or
 - 33 (B) to permit the acquisition of;
34 some property.

35 (d) "Credit card" means an instrument or device (whether known as
36 a credit card or charge plate, or by any other name) issued by an issuer
37 for use by or on behalf of the credit card holder in obtaining property.

38 (e) "Credit card holder" means the person to whom or for whose
39 benefit the credit card is issued by an issuer.

40 (f) "Customer" means a person who receives or has contracted for
41 a utility service.

42 (g) "Drug or alcohol screening test" means a test that:



- 1 (1) is used to determine the presence or use of alcohol, a
 2 controlled substance, or a drug in a person's bodily substance; and
 3 (2) is:
- 4 (A) administered in the course of monitoring a person who is:
 5 (i) incarcerated in a prison or jail;
 6 (ii) placed in a community corrections program;
 7 (iii) on probation or parole;
 8 (iv) participating in a court ordered alcohol or drug
 9 treatment program; or
 10 (v) on court ordered pretrial release; or
 11 (B) ordered by a court as part of a civil action.
- 12 (h) "Entrusted" means held in a fiduciary capacity or placed in
 13 charge of a person engaged in the business of transporting, storing,
 14 lending on, or otherwise holding property of others.
- 15 (i) "Identifying information" means information that identifies a
 16 person, including a person's:
- 17 (1) name, address, date of birth, place of employment, employer
 18 identification number, mother's maiden name, Social Security
 19 number, or any identification number issued by a governmental
 20 entity;
 21 (2) unique biometric data, including the person's fingerprint,
 22 voice print, or retina or iris image;
 23 (3) unique electronic identification number, address, or routing
 24 code;
 25 (4) telecommunication identifying information; or
 26 (5) telecommunication access device, including a card, a plate, a
 27 code, a telephone number, an account number, a personal
 28 identification number, an electronic serial number, a mobile
 29 identification number, or another telecommunications service or
 30 device or means of account access that may be used to:
 31 (A) obtain money, goods, services, or any other thing of value;
 32 or
 33 (B) initiate a transfer of funds.
- 34 (j) "Insurance policy" includes the following:
 35 (1) An insurance policy.
 36 (2) A contract with a health maintenance organization (as defined
 37 in IC 27-13-1-19) or a limited service health maintenance
 38 organization (as defined in IC 27-13-1-27).
 39 (3) A written agreement entered into under IC 27-1-25.
- 40 (k) "Insurer" has the meaning set forth in IC 27-1-2-3(x). The term
 41 also includes the following:
 42 (1) A reinsurer.



- 1 (2) A purported insurer or reinsurer.
 2 (3) A broker.
 3 (4) An agent of an insurer, a reinsurer, a purported insurer or
 4 reinsurer, or a broker.
 5 (5) A health maintenance organization.
 6 (6) A limited service health maintenance organization.
 7 (l) "Manufacturer" means a person who manufactures a recording.
 8 The term does not include a person who manufactures a medium upon
 9 which sounds or visual images can be recorded or stored.
 10 (m) "Make" means to draw, prepare, complete, counterfeit, copy or
 11 otherwise reproduce, or alter any written instrument in whole or in part.
 12 (n) "Metering device" means a mechanism or system used by a
 13 utility to measure or record the quantity of services received by a
 14 customer.
 15 (o) "Public relief or assistance" means any payment made, service
 16 rendered, hospitalization provided, or other benefit extended to a
 17 person by a governmental entity from public funds and includes
 18 township assistance, food stamps, direct relief, unemployment
 19 compensation, and any other form of support or aid.
 20 (p) "Recording" means a tangible medium upon which sounds or
 21 visual images are recorded or stored. The term includes the following:
 22 (1) An original:
 23 (A) phonograph record;
 24 (B) compact disc;
 25 (C) wire;
 26 (D) tape;
 27 (E) audio cassette;
 28 (F) video cassette; or
 29 (G) film.
 30 (2) Any other medium on which sounds or visual images are or
 31 can be recorded or otherwise stored.
 32 (3) A copy or reproduction of an item in subdivision (1) or (2)
 33 that duplicates an original recording in whole or in part.
 34 (q) "Slug" means an article or object that is capable of being
 35 deposited in a coin machine as an improper substitute for a genuine
 36 coin, bill, or token.
 37 (r) "Stored value card" means any card, instrument, or device
 38 that may be used by the bearer to obtain money, goods, or services:
 39 (1) after a prepayment results in an issuance of credit that
 40 may be accessed by the stored value card; or
 41 (2) in an amount equivalent to a predetermined and prepaid
 42 credit.



1 (†) (s) "Synthetic identifying information" means identifying
2 information that identifies:

- 3 (1) a false or fictitious person;
4 (2) a person other than the person who is using the information;
5 or
6 (3) a combination of persons described under subdivisions (1) and
7 (2).

8 (†) (t) "Utility" means a person who owns or operates, for public
9 use, any plant, equipment, property, franchise, or license for the
10 production, storage, transmission, sale, or delivery of electricity, water,
11 steam, telecommunications, information, or gas.

12 (†) (u) "Written instrument" means a paper, a document, or other
13 instrument containing written matter and includes money, coins,
14 tokens, stamps, seals, credit cards, badges, trademarks, medals, retail
15 sales receipts, labels or markings (including a universal product code
16 (UPC) or another product identification code), or other objects or
17 symbols of value, right, privilege, or identification.

18 SECTION 6. IC 35-43-5-4, AS AMENDED BY P.L.158-2013,
19 SECTION 474, IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2019]: Sec. 4. A person who:

- 21 (1) with intent to defraud, obtains property by:
22 (A) using a credit card **or stored value card** knowing that the
23 credit card **or stored value card** was unlawfully obtained or
24 retained;
25 (B) using a credit card **or stored value card** knowing that the
26 credit card **or stored value card** is forged, revoked, or
27 expired;
28 (C) using, without consent, a credit card that was issued to
29 another person;
30 (D) representing, without the consent of the credit card holder,
31 that the person is the authorized holder of the credit card; or
32 (E) representing that the person is the authorized holder of a
33 credit card when the card has not in fact been issued;
34 (2) being authorized by an issuer to furnish property upon
35 presentation of a credit card, fails to furnish the property and, with
36 intent to defraud the issuer or the credit card holder, represents in
37 writing to the issuer that the person has furnished the property;
38 (3) being authorized by an issuer to furnish property upon
39 presentation of a credit card, furnishes, with intent to defraud the
40 issuer or the credit card holder, property upon presentation of a
41 credit card, knowing that the credit card was unlawfully obtained
42 or retained or that the credit card is forged, revoked, or expired;



- 1 (4) not being the issuer, knowingly or intentionally sells a credit
2 card;
3 (5) not being the issuer, receives a credit card, knowing that the
4 credit card was unlawfully obtained or retained or that the credit
5 card is forged, revoked, or expired;
6 (6) with intent to defraud, receives a credit card as security for
7 debt;
8 (7) receives property, knowing that the property was obtained in
9 violation of subdivision (1) of this section;
10 (8) with intent to defraud the person's creditor or purchaser,
11 conceals, encumbers, or transfers property;
12 (9) with intent to defraud, damages property; or
13 (10) knowingly or intentionally:
14 (A) sells;
15 (B) rents;
16 (C) transports; or
17 (D) possesses;
18 a recording for commercial gain or personal financial gain that
19 does not conspicuously display the true name and address of the
20 manufacturer of the recording;
21 commits fraud, a Level 6 felony.

