



February 28, 2001

HOUSE BILL No. 1218

DIGEST OF HB 1218 (Updated February 27, 2001 1:16 PM - DI 105)

Citations Affected: IC 35-43; noncode.

Synopsis: False sales receipts and product codes. Specifies, for the crime of theft and related crimes, that altering, substituting, or transferring a universal product code (UPC) or another product identification code constitutes prima facie evidence of intent to deprive the owner of property and exerting unauthorized control over property. In the law governing forgery and related crimes: (1) specifies that the act of copying, reproducing, or counterfeiting a written instrument is included in the term "make"; and (2) specifies that retail sales receipts, labels, and markings with a universal product code (UPC) or other product identification code are included in the term "written instrument". Makes it a felony to, with intent to defraud: (1) make or place a false universal product code (UPC) or another product identification code of a product for sale; (2) make a false or duplicate sales receipt; or (3) deliver a false universal product code (UPC), false product identification code, or false or duplicate sales receipt. Makes it a Class A misdemeanor to, with intent to defraud: (1) possess a device to make a retail sales receipt or a label containing a universal product code (UPC) or another product identification code; or (2) possess a retail sales receipt or label containing a universal product code (UPC) that applies to another item.

Effective: July 1, 2001.

Mellinger, Ayres, Goodin, Herndon

January 9, 2001, read first time and referred to Committee on Courts and Criminal Code.
February 27, 2001, reported — Do Pass.

HB 1218—LS 6670/DI 51+



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February 28, 2001

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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HOUSE BILL No. 1218

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 35-43-4-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The price tag or
3 price marking on property displayed or offered for sale constitutes
4 prima facie evidence of the value and ownership of the property.
5 (b) Evidence that a person:
6 (1) altered, substituted, or transferred a **universal product code**
7 **(UPC) or another product identification code**, label, price tag,
8 or price marking on property displayed or offered for sale or hire;
9 or
10 (2) transferred property displayed or offered for sale or hire from
11 the package, bag, or container in or on which the property was
12 displayed or offered to another package, bag, or container;
13 constitutes prima facie evidence of intent to deprive the owner of the
14 property of a part of its value and that the person exerted unauthorized
15 control over the property.
16 (c) Evidence that a person:
17 (1) concealed property displayed or offered for sale or hire; and

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1 (2) removed the property from any place within the business
 2 premises at which it was displayed or offered to a point beyond
 3 that at which payment should be made;
 4 constitutes prima facie evidence of intent to deprive the owner of the
 5 property of a part of its value and that the person exerted unauthorized
 6 control over the property.

7 (d) Except as provided in subsection (e) of this section, evidence of
 8 failure to perform as promised, by itself, does not constitute evidence
 9 that the promisor knew that the promise would not be performed.

10 (e) Except as provided in section 5(b) of this chapter, a person who
 11 has insufficient funds in or no account with a drawee credit institution
 12 and who makes, draws, or utters a check, draft, or order for payment on
 13 the credit institution may be inferred:

14 (1) to have known that the credit institution would refuse payment
 15 upon presentment in the usual course of business; and

16 (2) to have intended to deprive the owner of any property
 17 acquired by making, drawing, or uttering the check, draft, or order
 18 for payment of a part of the value of that property.

19 (f) Evidence that a person, after renting or leasing any property
 20 under a written agreement providing for the return of the property to a
 21 particular place at a particular time, failed to return the property to the
 22 place within seventy-two (72) hours after the agreed time constitutes
 23 prima facie evidence that he exerted unauthorized control over the
 24 property.

25 (g) A judge may find that a photograph of property over which a
 26 person is alleged to have exerted unauthorized control or to have
 27 otherwise obtained unlawfully is competent evidence, if the
 28 photograph:

29 (1) will serve the purpose of demonstrating the nature of the
 30 property; and

31 (2) is otherwise admissible into evidence under all other rules of
 32 law governing the admissibility of photographs into evidence.

33 The fact that it is impractical to introduce into evidence the actual
 34 property for any reason, including its size, weight, or unavailability,
 35 need not be established for a judge to find a photograph of that property
 36 to be competent evidence. If a photograph is found to be competent
 37 evidence under this subsection, it is admissible into evidence in place
 38 of the property and to the same extent as the property itself.

39 (h) A law enforcement agency that is holding as evidence property
 40 over which a person is alleged to have exerted unauthorized control or
 41 to have otherwise obtained unlawfully, may return that property to its
 42 owner if:

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- 1 (1) the property has been photographed in a manner that will
- 2 serve the purpose of demonstrating the nature of the property, and
- 3 if these photographs are filed with or retained by the law
- 4 enforcement agency in place of the property;
- 5 (2) receipt for the property is obtained from the owner upon
- 6 delivery by the law enforcement agency;
- 7 (3) the prosecuting attorney who is prosecuting a case that
- 8 involves the property has not requested the law enforcement
- 9 agency to decline requests for return of the property to its owner;
- 10 and
- 11 (4) the property may be lawfully possessed by the owner.

12 SECTION 2. IC 35-43-5-1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The definitions
 14 set forth in this section apply throughout this chapter.

15 (b) "Claim statement" means an insurance policy, a document or
 16 statement made in support of a claim for payment or other benefit
 17 under an insurance policy, or other evidence of expense, injury, or loss.
 18 The term includes statements made orally, in writing, or as a computer
 19 generated document, including the following:

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

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

- 38 (1) to receive a coin, bill, or token made for that purpose; and
- 39 (2) in return for the insertion or deposit of a coin, bill, or token
- 40 automatically:
 - 41 (A) to offer, provide, or assist in providing; or
 - 42 (B) to permit the acquisition of;

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- 1 some property.
- 2 (d) "Credit card" means an instrument or device (whether known as
- 3 a credit card or charge plate, or by any other name) issued by an issuer
- 4 for use by or on behalf of the credit card holder in obtaining property.
- 5 (e) "Credit card holder" means the person to whom or for whose
- 6 benefit the credit card is issued by an issuer.
- 7 (f) "Customer" means a person who receives or has contracted for
- 8 a utility service.
- 9 (g) "Entrusted" means held in a fiduciary capacity or placed in
- 10 charge of a person engaged in the business of transporting, storing,
- 11 lending on, or otherwise holding property of others.
- 12 (h) "Insurance policy" includes the following:
- 13 (1) An insurance policy.
- 14 (2) A contract with a health maintenance organization (as defined
- 15 in IC 27-13-1-19).
- 16 (3) An administrator contract entered into under IC 27-1-25.
- 17 (i) "Insurer" has the meaning set forth in IC 27-1-2-3(x).
- 18 (j) "Manufacturer" means a person who manufactures a recording.
- 19 The term does not include a person who manufactures a medium upon
- 20 which sounds or visual images can be recorded or stored.
- 21 (k) "Make" means to draw, prepare, complete, **counterfeit, copy or**
- 22 **otherwise reproduce**, or alter any written instrument in whole or in
- 23 part.
- 24 (l) "Metering device" means a mechanism or system used by a
- 25 utility to measure or record the quantity of services received by a
- 26 customer.
- 27 (m) "Public relief or assistance" means any payment made, service
- 28 rendered, hospitalization provided, or other benefit extended to a
- 29 person by a governmental entity from public funds and includes poor
- 30 relief, food stamps, direct relief, unemployment compensation, and any
- 31 other form of support or aid.
- 32 (n) "Recording" means a tangible medium upon which sounds or
- 33 visual images are recorded or stored. The term includes the following:
- 34 (1) An original:
- 35 (A) phonograph record;
- 36 (B) compact disc;
- 37 (C) wire;
- 38 (D) tape;
- 39 (E) audio cassette;
- 40 (F) video cassette; or
- 41 (G) film.
- 42 (2) Any other medium on which sounds or visual images are or

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1 can be recorded or otherwise stored.

2 (3) A copy or reproduction of an item in subdivision (1) or (2)
3 that duplicates an original recording in whole or in part.

4 (o) "Slug" means an article or object that is capable of being
5 deposited in a coin machine as an improper substitute for a genuine
6 coin, bill, or token.

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

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

17 SECTION 3. IC 35-43-5-14 IS ADDED TO THE INDIANA CODE
18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
19 1, 2001]: **Sec. 14. (a) A person who, with intent to defraud,**
20 **possesses:**

21 **(1) a retail sales receipt;**

22 **(2) a label or other item with a universal product code (UPC);**
23 **or**

24 **(3) a label or other item that contains a product identification**
25 **code that applies to an item other than the items to which the**
26 **label or other item applies;**

27 **commits possession of a fraudulent sales document, a Class A**
28 **misdemeanor.**

29 **(b) The offense under subsection (a) is a Class D felony if the**
30 **person possesses at least fifteen (15):**

31 **(1) retail sales receipts;**

32 **(2) labels containing a universal product code (UPC);**

33 **(3) labels containing another product identification code; or**

34 **(4) of any combination of the items described in subdivisions**

35 **(1) through (3).**

36 SECTION 4. IC 35-43-5-15 IS ADDED TO THE INDIANA CODE
37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
38 1, 2001]: **Sec. 15. A person who, with intent to defraud, possesses a**
39 **device to make retail sales receipts, universal product codes (UPC),**
40 **or other product identification codes, commits possession of a**
41 **fraudulent sales document manufacturing device, a Class A**
42 **misdemeanor.**



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1 SECTION 5. IC 35-43-5-16 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2001]: **Sec. 16. A person who, with intent to defraud:**

4 **(1) makes or puts a false universal product code (UPC) or**
 5 **another product identification code on property displayed or**
 6 **offered for sale; or**

7 **(2) makes a false sales receipt;**
 8 **commits making a false sales document, a Class D felony.**

9 SECTION 6. IC 35-43-5-17 IS ADDED TO THE INDIANA CODE
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 11 1, 2001]: **Sec. 17. A person who, with intent to defraud, delivers a:**

12 **(1) false sales receipt;**

13 **(2) duplicate of a sales receipt; or**

14 **(3) label or other item with a false universal product code**
 15 **(UPC) or other product identification code;**

16 **to another person commits delivery of a false sales document, a**
 17 **Class D felony.**

18 SECTION 7. [EFFECTIVE JULY 1, 2001] (a) IC 35-43-5-14,
 19 IC 35-43-5-15, IC 35-43-5-16, and IC 35-43-5-17, all as added by
 20 this act, apply only to offenses committed after June 30, 2001.

21 (b) The amendment by this act of IC 35-43-4-4 and IC 35-43-5-1
 22 is intended to specify that the scope of the amended terms includes
 23 retail sales receipts, universal product codes (UPC), and other
 24 product identification codes. The amendment of these definitions
 25 shall not be construed to mean that these terms did not cover retail
 26 sales receipts, universal product codes (UPC), and other product
 27 identification codes before July 1, 2001.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1218, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 11, nays 0.

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