

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.

HOUSE ENROLLED ACT No. 1218

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

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

SECTION 1. IC 35-43-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The price tag or price marking on property displayed or offered for sale constitutes prima facie evidence of the value and ownership of the property.

(b) Evidence that a person:

(1) altered, substituted, or transferred a **universal product code (UPC) or another product identification code**, label, price tag, or price marking on property displayed or offered for sale or hire;
or

(2) transferred property displayed or offered for sale or hire from the package, bag, or container in or on which the property was displayed or offered to another package, bag, or container;

constitutes prima facie evidence of intent to deprive the owner of the property of a part of its value and that the person exerted unauthorized control over the property.

(c) Evidence that a person:

(1) concealed property displayed or offered for sale or hire; and
(2) removed the property from any place within the business premises at which it was displayed or offered to a point beyond that at which payment should be made;

constitutes prima facie evidence of intent to deprive the owner of the property of a part of its value and that the person exerted unauthorized

C
O
P
Y

HEA 1218+



control over the property.

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

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

- (1) to have known that the credit institution would refuse payment upon presentment in the usual course of business; and
- (2) to have intended to deprive the owner of any property acquired by making, drawing, or uttering the check, draft, or order for payment of a part of the value of that property.

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

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

- (1) will serve the purpose of demonstrating the nature of the property; and
- (2) is otherwise admissible into evidence under all other rules of law governing the admissibility of photographs into evidence.

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

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

- (1) the property has been photographed in a manner that will serve the purpose of demonstrating the nature of the property, and if these photographs are filed with or retained by the law enforcement agency in place of the property;
- (2) receipt for the property is obtained from the owner upon

C
O
P
Y



delivery by the law enforcement agency;

(3) the prosecuting attorney who is prosecuting a case that involves the property has not requested the law enforcement agency to decline requests for return of the property to its owner; and

(4) the property may be lawfully possessed by the owner.

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

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

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

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

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

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

(e) "Credit card holder" means the person to whom or for whose

C
O
P
Y



benefit the credit card is issued by an issuer.

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

(g) "Entrusted" means held in a fiduciary capacity or placed in charge of a person engaged in the business of transporting, storing, lending on, or otherwise holding property of others.

(h) "Insurance policy" includes the following:

(1) An insurance policy.

(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19).

(3) An administrator contract entered into under IC 27-1-25.

(i) "Insurer" has the meaning set forth in IC 27-1-2-3(x).

(j) "Manufacturer" means a person who manufactures a recording. The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.

(k) "Make" means to draw, prepare, complete, **counterfeit, copy or otherwise reproduce**, or alter any written instrument in whole or in part.

(l) "Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.

(m) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes poor relief, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

(n) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:

(1) An original:

(A) phonograph record;

(B) compact disc;

(C) wire;

(D) tape;

(E) audio cassette;

(F) video cassette; or

(G) film.

(2) Any other medium on which sounds or visual images are or can be recorded or otherwise stored.

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

(o) "Slug" means an article or object that is capable of being deposited in a coin machine as an improper substitute for a genuine

C
O
P
Y



coin, bill, or token.

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

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

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

- (1) a retail sales receipt;
- (2) a label or other item with a universal product code (UPC);
- or
- (3) a label or other item that contains a product identification code that applies to an item other than the items to which the label or other item applies;

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

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

- (1) retail sales receipts;
- (2) labels containing a universal product code (UPC);
- (3) labels containing another product identification code; or
- (4) of any combination of the items described in subdivisions (1) through (3).

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

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

- (1) makes or puts a false universal product code (UPC) or another product identification code on property displayed or

C
O
P
Y



offered for sale; or
**(2) makes a false sales receipt;
commits making a false sales document, a Class D felony.**

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

- (1) false sales receipt;**
- (2) duplicate of a sales receipt; or**
- (3) label or other item with a false universal product code (UPC) or other product identification code;**

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

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

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

C
o
p
y



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

C
o
p
y

HEA 1218+

