

THE MICHIGAN PENAL CODE (EXCERPT)

Act 328 of 1931

CHAPTER XXIVA

CREDIT CARDS

750.157m Definitions.

Sec. 157m. As used in this chapter:

(a) "Credit account" means the account through which a business organization or financial institution allows a person or organization to obtain goods, property, services, or any other thing of value on credit.

(b) "Credit card" means either of the following:

(i) Any instrument or device which is sold, issued, or otherwise distributed by a business organization or financial institution for the use of the person or organization identified on the instrument or device for obtaining goods, property, services, or anything of value on credit.

(ii) An instrument or device which is issued or otherwise distributed by an organization for the use of the person identified on the instrument or device for obtaining health care services or goods or reimbursement or payment for health care services or goods. As used in this subparagraph, "organization" means any of the following:

(A) A dental care corporation incorporated under 1963 PA 125, MCL 550.351 to 550.373.

(B) A health care corporation incorporated under the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(C) A health maintenance organization licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(D) An insurer as defined in section 106 of the insurance code of 1956, 1956 PA 218, MCL 500.106.

(E) A third party administrator operating under a certificate of authority issued by the commissioner pursuant to the third party administrator act, 1984 PA 218, MCL 550.901 to 550.960.

(c) "Cryptocurrency" means digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, and that operates independently of a central bank.

(d) "Deposit account" includes share, deposit, member, and savings accounts of financial institutions.

(e) "Deviceholder" means either of the following:

(i) The person or organization who requests a financial transaction device and to whom or for whose benefit a financial transaction device is subsequently issued.

(ii) The person or organization to whom a financial transaction device was issued and who used or accepted a financial transaction device, whether the issuance of the financial transaction device was requested or not.

(f) "Distributed ledger technology" means any distributed ledger protocol and supporting infrastructure, including blockchain, that uses a distributed, decentralized, shared, and replicated ledger, whether use of the ledger is public or private, permissioned or permissionless, and that may include the use of electronic currencies or electronic tokens as a medium of electronic exchange.

(g) "Financial institution" means a bank, savings and loan association, or credit union, and includes a corporation wholly owned by a financial institution or by the holding company parent of a financial institution.

(h) "Financial transaction device" means any of the following:

(i) An electronic funds transfer card.

(ii) A credit card.

(iii) A debit card.

(iv) A point-of-sale card.

(v) Any instrument, device, card, plate, code, account number, personal identification number, or a record or copy of a code, account number, or personal identification number or other means of access to a credit account or deposit account including through the use of cryptocurrency or distributed ledger technology, or a driver license or state identification card used to access a proprietary account, other than access originated solely by a paper instrument, that can be used alone or in conjunction with another access device, for any of the following purposes:

(A) Obtaining money, cash refund or credit account, credit, goods, services, or any other thing of value.

(B) Certifying or guaranteeing to a person or business the availability to the deviceholder of funds on deposit to honor a draft or check payable to the order of that person or business.

(C) Providing the deviceholder access to a deposit account for the purpose of making deposits,

withdrawing funds, transferring funds between deposit accounts, obtaining information pertaining to a deposit account, or making an electronic funds transfer as defined in section 3(4) of 1978 PA 322, MCL 488.3.

(i) "Proprietary account" means the account which is maintained by a business organization in the name of an individual person or organization and through which the business organization allows the person or organization to obtain goods, property, services, or any other thing of value on credit.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1987, Act 276, Eff. Mar. 30, 1988;—Am. 1988, Act 335, Eff. Mar. 30, 1989;—Am. 2019, Act 175, Eff. Mar. 19, 2020.

750.157n Stealing, taking, or removing financial transaction device; possession of fraudulent or altered financial transaction device.

Sec. 157n. (1) A person who steals knowingly takes, or knowingly removes a financial transaction device from the person or possession of a deviceholder, or who knowingly retains, knowingly possesses, knowingly secretes, or knowingly uses a financial transaction device without the consent of the deviceholder, is guilty of a felony.

(2) A person who knowingly possesses a fraudulent or altered financial transaction device is guilty of a felony.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1987, Act 276, Eff. Mar. 30, 1988.

750.157p Possession or control of another's financial transaction device with intent to use, deliver, circulate, or sell.

Sec. 157p. A person who has in his or her possession, or under his or her control, or who receives from another person a financial transaction device with the intent to use, deliver, circulate, or sell the financial transaction device, or to permit, cause, or procure the financial transaction device to be used, delivered, circulated, or sold, knowing the possession, control, receipt, use, delivery, circulation, or sale to be without the consent of the deviceholder, is guilty of a felony.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1987, Act 276, Eff. Mar. 30, 1988.

750.157q Delivery, circulation, or sale of financial transaction device obtained or held under proscribed circumstances.

Sec. 157q. A person who delivers, circulates, or sells a financial transaction device which was obtained or held by that person under circumstances proscribed under section 157n, 157p, or 157v, or uses, permits, causes, or procures the financial transaction device to be used, delivered, circulated, or sold, knowing the device to have been obtained or held under circumstances proscribed under section 157n, 157p, or 157v is guilty of a felony.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1987, Act 276, Eff. Mar. 30, 1988.

750.157r Forgery, alteration, simulation, or counterfeiting of financial transaction device.

Sec. 157r. A person who, with intent to defraud, forges, materially alters, simulates, or counterfeits a financial transaction device is guilty of a felony.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1987, Act 276, Eff. Mar. 30, 1988.

750.157s Use of revoked or cancelled financial transaction device with intent to defraud.

Sec. 157s. (1) A person who, for the purpose of obtaining goods, property, services, or anything of value, knowingly and with intent to defraud uses 1 or more financial transaction devices that have been revoked or canceled by the issuer of the device or devices, as distinguished from expired, and has received notice of the revocation or cancellation is guilty of a crime as follows:

(a) If the value of the goods, property, services, or anything of value is less than \$100.00, as follows:

(i) For a first offense, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(ii) For an offense following 1 or more prior convictions under this section or a local ordinance substantially corresponding to this section, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) If the value of the goods, property, services, or anything of value is \$100.00 or more but less than \$500.00, as follows:

(i) For a first or second offense, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00 or 3 times the aggregate value of the goods, property, services, or anything of value, whichever is greater, or both imprisonment and a fine.

(ii) For an offense following 2 or more prior convictions under this section, a felony punishable by

imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a).

(c) If the value of the goods, property, services, or anything of value is \$500.00 or more, a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00 or 3 times the aggregate value of the goods, property, services, or anything of value, whichever is greater, or both imprisonment and a fine.

(2) The values of goods, property, services, or things of value obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of goods, property, services, or things of value obtained.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1968, Act 183, Eff. Nov. 15, 1968;—Am. 1987, Act 276, Eff. Mar. 30, 1988;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

750.157t Sales to or services performed for violators.

Sec. 157t. Any person who sells or delivers goods or property or anything of value, or renders any service to any other person knowing that such other person has committed or is committing any act prohibited by this chapter shall be guilty of a felony.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967.

750.157u Causing deviceholder to be charged or overcharged.

Sec. 157u. A person to whom a deviceholder presents a financial transaction device for the purpose of obtaining goods, property, services, or anything of value on credit, or for any purpose for which the device may be used, who, by using the financial transaction device, by forging or aiding in the forgery of the deviceholder's signature, or by filling out or completing an application or form to be furnished to the issuer of the financial transaction device, causes the deviceholder to be charged for a purchase or other transaction that was not authorized by the deviceholder, to be overcharged for a purchase or other transaction that was authorized by the deviceholder, or to otherwise incur a financial loss, is guilty of a felony.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1987, Act 276, Eff. Mar. 30, 1988.

750.157v False statement of identity for purpose of procuring issuance of financial transaction device.

Sec. 157v. A person who, knowingly and with intent to defraud, makes or causes to be made, directly or indirectly, a false statement in writing regarding his or her identity or that of any other person for the purpose of procuring the issuance of a financial transaction device, is guilty of a felony.

History: Add. 1987, Act 276, Eff. Mar. 30, 1988.

750.157w Fraudulent use of financial transaction device to withdraw or transfer funds in violation of contractual limitations.

Sec. 157w. (1) A person who knowingly and with intent to defraud uses a financial transaction device to withdraw or transfer funds from a deposit account in violation of the contractual limitations imposed on the amount or frequency of withdrawals or transfers or in an amount exceeding the funds then on deposit in the account is guilty of a crime as follows:

(a) A misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the amount of funds withdrawn or transferred, whichever is greater, or both imprisonment and a fine, if the amount of the funds withdrawn or transferred is less than \$200.00.

(b) A misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the amount of funds withdrawn or transferred, whichever is greater, or both imprisonment and a fine, if any of the following apply:

(i) The amount of the funds withdrawn or transferred is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) A felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the amount of funds withdrawn or transferred, whichever is greater, or both imprisonment and a fine, if any of the following apply:

(i) The amount of the funds withdrawn or transferred is \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(d) A felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the amount of funds withdrawn or transferred, whichever is greater, or both imprisonment and a fine, if any of the following apply:

(i) The amount of funds withdrawn or transferred is \$20,000.00 or more.

(ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(2) The amounts of funds withdrawn or transferred in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total amount of funds withdrawn or transferred.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1987, Act 276, Eff. Mar. 30, 1988;—Am. 1998, Act 312, Eff. Jan. 1, 1999.