

**ACT 80**

H.B. NO. 1603-70

A Bill for an Act Relating to Credit Card Offenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 730, Hawaii Revised Statutes, is amended to read as follows:

**“CHAPTER 730**

**CREDIT CARD OFFENSES**

**“Section 730-1 Definitions.**

- (1) “Cardholder” means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.
- (2) “Credit card” means any instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, on credit.
- (3) “Expired credit card” means a credit card which is no longer valid because the term shown on it has elapsed.
- (4) “Issuer” means the business organization or financial institution which issues a credit card or its agent.
- (5) “Receives” or “receiving” means acquiring possession or control or accepting as security for a loan.
- (6) “Revoked credit card” means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

**“Section 730-2. False Statement for purpose of procuring issuance of credit cards; penalties.** A person who makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting his identity or that of any other person, firm, or corporation, or a material fact as to his financial condition or that of any other person, firm, or corporation, for the purpose of procuring the issuance of a credit card, violates this section and is subject to the penalties set forth in subsection 730-10(a).

**“Section 730-3. Theft, forgery, etc, of credit cards; penalties.** (a) A person who takes a credit card from the person, possession, custody, or control of another without the cardholder’s consent or who, with knowledge that it has been so taken, receives the credit card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder is guilty of credit card theft and is subject to the penalties set forth in subsection 730-10(a). Taking a credit card without consent includes obtaining it by conduct defined or known as statutory larceny, common law larceny by trespassory taking, common law larceny by trick, embezzlement, or obtaining property by false pretense, false promise, gross cheat, or extortion. If a person has in his possession or under his control credit cards issued in the names of two or more other persons, which

have been taken or obtained in violation of this subsection, it is prima facie evidence that he knew that the credit cards had been so taken or obtained.

(b) A person who receives a credit card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder is guilty of credit card theft and is subject to the penalties set forth in subsection 730-10(a).

(c) A person other than the issuer who sells a credit card or a person who buys a credit card from a person other than the issuer violates this subsection and is subject to the penalties set forth in subsection 730-10(a).

(d) A person who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, obtains control over a credit card as security for debt violates this subsection and is subject to the penalties set forth in subsection 730-10(a).

(e) A person, other than the issuer, who during any twelve-month period, receives credit cards issued in the names of two or more persons which he has reason to know were taken or retained under circumstances which constitute credit card theft or a violation of section 730-2 or subsection (c) or (d) of this section violates this subsection and is subject to the penalties set forth in subsection 730-10(b).

(f) A person who, with intent to defraud a purported issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, falsely makes or falsely embosses a purported credit card or utters such a credit card, or possesses such a credit card with knowledge that the same has been falsely made or falsely embossed is guilty of credit card forgery and is subject to the penalties set forth in subsection 730-10(b). If a person other than the purported issuer possesses two or more credit cards which have been made or embossed in violation of this subsection, it is prima facie evidence that he intended to defraud or that he knew the credit cards had been so made or embossed. A person falsely makes a credit card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit card of a named issuer but which is not such a credit card because the issuer did not authorize the making or drawing, or alters a credit card which was validly issued. A person falsely embosses a credit card when, without authorization of the named issuer, he completes a credit card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder.

(g) A person other than the cardholder or a person authorized by him who, with intent to defraud the issuer, or a person or organization providing money, goods, services, or anything else of value, or any other person, signs a credit card, is guilty of credit card forgery and is subject to the penalties set forth in subsection 730-10(a).

**“Section 730-4. Fraudulent use of credit cards, etc. penalties.** A person, who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, (1) uses for the purpose of obtaining money, goods, services, or anything else of value a

## ACT 80

credit card obtained or retained in violation of section 730-3 or a credit card which he knows is forged, expired, or revoked; or (2) obtains money, goods, services, or anything else of value by representing without the consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued, violates this section and is subject to the penalties set forth in subsection 730-10(a), if the value of all money, goods, services, and other things of value obtained in violation of this section does not exceed \$500 in any six-month period; and is subject to the penalties set forth in subsection 730-10(b), if such value exceeds \$500 in any six-month period.

Knowledge of revocation of a credit card shall be presumed to have been received by a cardholder four days after it has been mailed to him at the address set forth on the credit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten days after mailing by registered or certified mail.

**“Section 730-5. Fraud by person authorized to provide goods or services; penalties.** (a) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employees of such person, who, with intent to defraud the issuer or the cardholder, furnishes money, goods, services, or anything else of value upon presentation of a credit card obtained or retained in violation of section 730-3 or a credit card which he knows is forged, expired, or revoked violates this subsection and is subject to the penalties set forth in subsection 730-10(a), if the value of all money, goods, services, and other things of value furnished in violation of this subsection does not exceed \$500 in any six-month period; and is subject to the penalties set forth in subsection 730-10(b), if such value exceeds \$500 in any six-month period.

(b) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer or the cardholder, fails to furnish money, goods, services, or anything else of value which he represents in writing to the issuer that he has furnished violates this subsection and is subject to the penalties set forth in subsection 730-10(a), if the difference between the value of all money, goods, services, and anything else of value actually furnished and the value represented to the issuer to have been furnished does not exceed \$500 in any six-month period; and is subject to the penalties set forth in subsection 730-10(b), if such difference exceeds \$500 in any six-month period.

**“Section 730-6. Possession of certain machinery, plates, or other contrivance or incomplete credit cards; penalties.** A person other than the cardholder possessing an incomplete credit card, with intent to complete it without the consent of the issuer or a person possessing, with knowledge of its character, machinery, plates, or any other contrivance designed to reproduce instruments

purporting to be the credit cards of issuer who has not consented to the preparation of such credit cards, violates this section and is subject to the penalties set forth in subsection 730-10(b).

A credit card is incomplete if part of the matter other than the signature of the cardholder, which an issuer requires to appear on the credit card, before it can be used by a cardholder, has not yet been stamped, embossed, imprinted, or written on it.

If a person other than the cardholder or issuer possesses two or more incomplete credit cards, it is prima facie evidence that he intended to complete them without the consent of the owner.”

**“Section 730-7. Receipt of money, goods, services, or anything else of value obtained in violation of section 730-4; penalties.** A person who receives money, goods, services, or anything else of value obtained in violation of section 730-4, knowing or believing that it was so obtained violates this section and is subject to the penalties set forth in subsection 730-10(a), if the value of all money, goods, services, and other things of value obtained in violation of this section does not exceed \$500 in any six-month period; and is subject to the penalties set forth in subsection 730-10(b), if the value exceeds \$500 in any six-month period. If a person possesses three or more tickets for airline, railroad, steamship or other transportation services, which tickets were obtained from the issuer or agent thereof by the use of a stolen or forged credit card, or otherwise obtained in violation of section 730-4, it is prima facie evidence that he knew such tickets had been so obtained.”

**“Section 730-8. Defenses not available.** In any prosecution for violation of this chapter, the prosecution is not required to establish and it is no defense:

- (1) That a person other than the defendant who violated this chapter has not been convicted, apprehended, or identified; or
- (2) That some of the acts constituting the offense did not occur in this State or were not a crime or elements of a crime where they did occur.”

**“Section 730-9. Prima facie evidence.** When this chapter establishes prima facie evidence of a fact, it is evidence which, if accepted in its entirety by the trier of fact, is sufficient to prove the fact, provided that no evidence negating the fact, which raises a reasonable doubt in the mind of the trier of fact, is introduced.”

**“Section 730-10. Penalties.** (a) A person who is subject to the penalties of this subsection shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) A person who is subject to the penalties of this subsection shall be fined not more than \$3,000 or imprisoned not more than three years, or both.”

**“Section 730-11. Chapter not exclusive.** This chapter shall not be construed to preclude the applicability of any other provision of the criminal law of this State which presently applies or may in the future apply to any transac-

## ACT 80

tion which violates this chapter, unless such provision is inconsistent with the terms of this chapter.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 13, 1970.)

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\* Edited accordingly