

CREDIT CARD CRIMES:
CREDIT CARD THEFT (TAKING)
N.J.S.A. 2C:21-6c(1)

The defendant is charged with Credit Card Theft. Specifically,
(Read Count _____ of indictment)

The applicable section of the statute reads as follows:

A person who takes or obtains a credit card from the person, possession, custody or control of another without the cardholder's consent . . . is guilty of a crime.

In order for you to find the defendant guilty, the State must prove the following elements beyond a reasonable doubt:

1. That the defendant took or obtained a credit card from the person, possession, custody, or control of another;
2. That the credit card was taken without the cardholder's consent and;
3. That the defendant acted knowingly.

The first element that the State must prove beyond a reasonable doubt is that the defendant took or obtained the credit card from the person, possession, custody, or control of another.¹

“Credit card” means any tangible or intangible instrument or device issued with or without a fee by an issuer that can be used, alone or in connection with another means of account access, in obtaining money, goods, services or anything else of value on credit, including credit cards, credit plates, account numbers, or any other means of account access.

“Issuer” means the business organization or financial institution which issues a credit card or its duly authorized agent.

“Possession” signifies a knowing, intentional control of a designated thing, accompanied by a knowledge of its character.

[Charge: Model Jury Charge on Possession]

¹ Taking a credit card without consent includes obtaining it by any conduct defined and prescribed in Chapter 20 of this title, Theft and Related Offenses.

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The second element that the State must prove beyond a reasonable doubt is that the credit card was taken without the cardholder's consent.

“Consent” is the voluntary agreement by the cardholder to the taking of the card.

[Charge, if Applicable]

The indictment charges the defendant with taking a credit card without consent by theft or related offenses.

(Add relevant charge as to specific larcenous activity charged)

(Charge theft or related offenses as set forth in charge N.J.S.A. 2C:20-1)

Proof that defendant had in his/her possession or under his/her control (a) credit cards issued in the names of two or more other persons or, (b) two or more stolen credit cards may give rise to an inference that the defendant obtained a credit card without consent.²

“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.

The third element that the State must prove beyond a reasonable doubt is that the defendant acted knowingly.

A person acts “knowingly” with respect to a result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result. A person acts knowingly with respect to the nature of his/her conduct if he/she is aware that his/her conduct is of that nature. “Knowing,” “with knowledge” or equivalent terms have the same meaning.

Knowledge is a condition of the mind which cannot be seen and can only be determined by inferences from conduct, words or acts. It is not necessary for the State to produce a witness or witnesses who could testify that the defendant acted knowingly.

If you find that the State has proven each and every one of the above elements beyond a

² In the appropriate case, the jury may be advised that such inference may be made from the presence of the facts set forth in 2C:21-6(c)(1) if there is a factual basis to do so in the evidence, State v. Humphrey, 183 N.J. Super. 580 (Law Div. 1982) or, under State in Interest of L.L.A., 178 N.J. Super. 555 (J.D.R.Ct. 1980), but it must be made clear that the inference is permissive, not conclusive; that it must be considered along with all the other evidence in the case; and that it in no way shifts the burden of proof from the State to the defendant. See State v. Bott, 53 N.J. 391 and State v. DiRienzo, 53 N.J. 360 (1969) and particularly the additional instructions and comments to Model Charge 2.271 under N.J.S.A. 2A:139-1. See also N.J.S.A. 2C:1-13e and Evid. R. 15.

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reasonable doubt, then you must find the defendant guilty of the crime charged.

If however, you find that the State has failed to prove any of the elements of the crime beyond a reasonable doubt, then you must find the defendant not guilty of the crime charged.