

CREDIT CARD CRIMES:
INTENT OF CARDHOLDER TO DEFRAUD; PENALTIES; REVOCATION
(USING CARD OBTAINED/RETAINED IN VIOLATION OF LAW)
N.J.S.A. 2C:21-6d

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 with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person . . . uses for the purpose of obtaining money, goods, services or anything else of value a credit card obtained or retained in violation of the law¹ . . . 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. The defendant used a credit card for the purpose of obtaining money, goods, services or anything else of value.
2. The credit card had been obtained or retained by the defendant in violation of the law, [**Choose Whichever Applicable**], (1) without the consent of the cardholder; (2) a credit card believed to have been lost, mislaid or delivered under a mistake as to the identity or address of the cardholder; (3) a credit card bought from a person other than the issuer; (4) a credit card obtained as security for a debt; or (5) a credit card falsely made or falsely embossed.
3. That the defendant knew the credit card had been obtained or retained in violation of the law, [**Choose Whichever Applicable**], (1) without the consent of the cardholder; (2) a credit card believed to have been lost, mislaid or delivered under a mistake as to the identity or address of the cardholder; (3) a credit card bought from a person other than the issuer; (4) a

¹ This statutory provision cross-references N.J.S.A. 2C:21-6c, which contains a number of different provisions prohibiting various forms of credit card theft. In each case the charges will have to be tailored to the theft.

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credit card obtained as security for a debt; or (5) a credit card falsely made or falsely embossed.

4. The defendant used the credit card with the intent to defraud the issuer, or a person or organization providing money, goods, services, or anything else of value, or any other person.

The first element that the State must prove beyond a reasonable doubt is that the defendant used a credit card for the purpose of obtaining money, goods, services or anything else of value.

“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.

The second element that the State must prove beyond a reasonable doubt is that the credit card had been obtained or retained by the defendant or another person in violation of the law, **[Choose Whichever Applicable]**, (1) without the consent of the cardholder; (2) a credit card believed to have been lost, mislaid or delivered under a mistake as to the identity or address of the cardholder; (3) a credit card bought from a person other than the issuer; (4) a credit card obtained as security for a debt; or (5) a credit card falsely made or falsely embossed.

“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, person or organization providing money, goods, services or anything else of value, or any other person.

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

The third element that the State must prove beyond a reasonable doubt is that the defendant knew the credit card had been obtained or retained in violation of the law, **[Choose**

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Whichever Applicable], (1) without the consent of the cardholder; (2) a credit card believed to have been lost, mislaid or delivered under a mistake as to the identity or address of the cardholder; (3) a credit card bought from a person other than the issuer; (4) a credit card obtained as security for a debt; or (5) a credit card falsely made or falsely embossed.

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.

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

The fourth element that the State must prove beyond a reasonable doubt is that the defendant used the credit card with the intent to defraud the issuer, or a person or organization providing money, goods, services, or anything else of value, or any other person.

A person acts “with intent” when he/she acts with purpose. A person acts purposely with respect to the nature of his/her conduct or a result thereof if it is his/her conscious objective to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if he/she is aware of the existence of such circumstances or believes or hopes that they exist. One can be deemed to be acting purposely if he/she acts with design, with a purpose, with a particular objective, if the individual means to do what he/she does.

“To defraud” means to deprive a person of property or any interest, estate, or right by deceit or artifice, to cheat.

If you find that the State has proven all of the above elements beyond a reasonable doubt,

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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, you must then find the defendant not guilty.