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National Council of Insurance Legislators (NCOIL)

Identity Theft Protection Model Act

Adopted by the NCOIL Executive Committee on November 21, 2003. Readopted by the NCOIL Executive Committee on November 11, 2006, November 20, 2011, November 20, 2016, November 20, 2021.

Section 1. Short Title

The Act shall be known and may be cited as the Identity Theft Protection Act.

Section 2. Purpose

The purpose of this Act is to protect consumers from the misuse of their personal financial information by those with the intent to defraud another person or with intent to commit any violation of federal, State or local law and to make such offenses a felony.

Section 3. Definitions

For the purposes of this Act, these defined words have the following meaning:

(A) "Document-making implement" means any implement, impression, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement;

(B) "Identification document" means a document made or card issued by or under the authority of the United States Government, a state, political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

(C) "Means of identification" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any:

- (1) Name, social security number, date of birth, official state or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number;
- (2) Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;
- (3) Unique electronic identification number, address, or routing code; or
- (4) Telecommunication identifying information or access device as defined in 18 U.S.C. section 1029(e).

(D) "Produce" means to manufacture, alter, authenticate, or assemble an identification document; and

(E) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States; and

(F) "Financial Information" means any of the following information identifiable to an individual that concerns the amount and/or condition of an individual's assets, liabilities or credit:

- (1) Account numbers and balances;
- (2) Transactional information concerning any account; or
- (3) Codes, passwords, social security numbers, tax identification numbers, driver's license numbers or any other information held for the purpose of account access or transaction initiation.

Section 4. Identity Fraud

(A) Any person who shall:

- (1) knowingly and without lawful authority produce an identification document or a false identification document;
- (2) knowingly transfer an identification document or a false identification document knowing that the document was stolen or produced without lawful authority;
- (3) knowingly possess with intent to use unlawfully or transfer unlawfully five (5) or more identification documents (other than those issued lawfully for the use of the possessor) or false identification documents;

(4) knowingly possess an identification document (other than one issued lawfully for the use of the possessor) or a false identification document, or financial information with the intent that the document or financial information be used to defraud the United States, this State, any political subdivision of it or any public or private entity;

(5) knowingly transfer or possess a document-making implement with the intent that the document-making implement will be used in the production of a false identification document or another document-making implement which will be so used;

(6) knowingly possess a false identification document that is or appears to be a genuine identification document of the United States, this State or any political subdivision of it or any public or private entity which is stolen or produced without lawful authority knowing that the document was stolen or produced without such authority; or

(7) knowingly transfer or use with intent to defraud, without lawful authority, a means of identification or financial information of another person living or dead, with the intent to commit, or to aid or abet, any unlawful activity that constitutes a violation of federal, state or local law; shall be guilty of a felony and shall be subject to the penalties set forth in section (insert appropriate statutory reference).

(B) The provisions of this section shall not apply to any person who has not reached his or her twenty-first (21st) birthday who misrepresents or misstates his or her age through the presentation of any document in order to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing or having served or delivered to him or her alcoholic beverages or attempting to purchase or have another person purchase for him or her any alcoholic beverage pursuant to section (insert appropriate statutory reference).

Section 5. Penalties

(A) Every person who violates the provisions of this Act shall be imprisoned for not more than three (3) years and may be fined not more than five thousand dollars (\$5,000) for a first conviction.

(B) Every person who violates the provisions of this Act shall be imprisoned for not less than three (3) years nor more than five (5) years and shall be fined not more than ten thousand dollars (\$10,000) for a second conviction.

(C) Every person who violates the provisions of this Act shall be imprisoned for not less than five (5) years nor more than ten (10) years and shall be fined not less than fifteen thousand dollars (\$15,000) for a third or subsequent conviction.

Section 6. Effective Date

This act shall take effect upon passage and shall apply to those offenses which occur after the date of passage.

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