HB 1622

THE HOUSE OF REPRESENTATIVES
Monday, February 26, 2007

House Bill No. 1622

HOUSE BILL NO. 1622 - By: DERBY of the House and JOLLEY of the Senate.

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 1550.2, which relates to unlawful use of credit or debit card; expanding scope of prohibited act; modifying penalties; amending 21 O.S. 2001, Section 1550.41, as amended by Section 1, Chapter 86, O.S.L. 2002 (21 O.S. Supp. 2006, Section 1550.41), which relates to identification documentation; modifying certain definition; amending 21 O.S. 2001, Section 1583, which relates to counterfeiting coin; expanding scope of certain prohibited act; making certain acts unlawful; providing penalty; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2001, Section 1550.2, is amended to read as follows:

Section 1550.2 Any person who knowingly uses or attempts to use in person ~~or~~, by telephone <u>or by the Internet</u>, for the purpose of obtaining credit, or for the purchase of goods, property or services, or for the purpose of obtaining cash advances in lieu of these items, or to deposit, obtain or transfer funds, either a credit card or a debit card which has not been issued to such person or which is not used with the consent of the person to whom issued or a credit card or a debit card which has been revoked or cancelled by the issuer of such card and actual notice thereof has been given to such person, or a credit card or a debit card which is false, counterfeit or nonexistent is guilty of a misdemeanor

and punishable by a fine of not more than ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00), or imprisonment in the county jail for not more than ~~thirty (30) days~~ one (1) year, or by both such fine and imprisonment if the amount of the credit or purchase or funds deposited, obtained or transferred by such use does not exceed Five Hundred Dollars ($500.00)~~; or, by a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00) or imprisonment for not more than one (1) year or both such fine and imprisonment if~~. If the amount of the credit or purchase or funds deposited, obtained or transferred by such use exceeds Five Hundred Dollars ($500.00), the person shall be guilty of a felony punishable by a fine of not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the custody of the Department of Corrections for not more than ten (10) years, or by both such fine and imprisonment.

SECTION 2. AMENDATORY 21 O.S. 2001, Section 1550.41, as amended by Section 1, Chapter 86, O.S.L. 2002 (21 O.S. Supp. 2006, Section 1550.41), is amended to read as follows:

Section 1550.41 A. As used in this section and Section 1550.42 of this title, "identification document", "identification card", or "identification certificate" means any printed form which contains:

1. The name and photograph of a person; ~~or~~

2. The name and any physical description of a person; ~~or~~

3. The name and social security number of a person; or

4. Any combination of information provided for in paragraphs 1 ~~and 2~~ through 3 of this subsection; and

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~~Strike thru~~ language denotes deletion from present Statutes.

which by its format, is capable of leading a person to believe said document, card, or certificate has been issued for the purpose of identifying the person named thereon, but shall not include any printed form which, on its face, conspicuously bears the term "NOT FOR IDENTIFICATION" in not less than six-point type.

B. It is a misdemeanor for any person:

1. To purchase an identification document, identification card, or identification certificate which bears altered or fictitious information concerning the date of birth, sex, height, eye color, weight, a fictitious or forged name or signature or a photograph of any person, other than the person named thereon;

2. To display or cause or permit to be displayed or to knowingly possess an identification document, identification card or identification certificate which bears altered or fictitious information concerning the date of birth, sex, height, eye color, weight, or fictitious or forged name or signature or a photograph of any person, other than the person named thereon;

3. To display or cause or permit to be displayed or to knowingly possess any counterfeit or fictitious identification document, identification card, or identification certificate; or

4. To use the "Great Seal of the State of Oklahoma" or facsimile thereof, on any identification document, identification card, or identification certificate which is not issued by an entity of this state or political subdivision thereof, or by the United States. Provided, nothing in this paragraph shall be construed to prohibit the use of the "Great

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Seal of the State of Oklahoma" for authorized advertising, including but not limited to, business cards, calling cards and stationery.

C. It is a felony for any person:

1. To create, publish or otherwise manufacture an identification document, identification card or identification certificate or facsimile thereof, or to create, manufacture or possess an engraved plate or other such device for the printing of an identification document, identification card or identification certificate or facsimile thereof, which purports to identify the bearer of such document, card, or certificate whether or not intended for use as identification, and includes, but is not limited to, documents, cards, and certificates purporting to be ~~driver's~~ driver licenses, ~~nondriver's~~ nondriver identification cards, birth certificates, social security cards, and employee identification cards, except as authorized by state or federal law;

2. To sell or offer for sale an identification document, identification card, or identification certificate or facsimile thereof, which purports to identify the bearer of such document, card, or certificate whether or not intended for use as identification, and includes, but is not limited to, documents, cards, and certificates purporting to be ~~driver's~~ driver licenses, ~~nondriver's~~ nondriver identification cards, birth certificates, social security cards, and employee identification cards, except as authorized by state or federal law; or

3. To display or present an identification document, identification card or identification certificate which bears altered, false or fictitious information for the purpose of:

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a. committing or aiding in the commission of a felony in any commercial or financial transaction,

b. misleading a peace officer in the performance of his duties, or

c. avoiding prosecution.

D. 1. The violation of any of the provisions of subsection B of this section shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than Twenty-five Dollars ($25.00), nor more than Two Hundred Dollars ($200.00).

2. The violation of any of the provisions of subsection C of this section shall constitute a felony and, upon conviction thereof, shall be punishable by a fine not exceeding Ten Thousand Dollars ($10,000.00) or a term of imprisonment in the State Penitentiary not to exceed seven (7) years, or by both such fine and imprisonment.

E. Notwithstanding any provision of this section, the chief administrator of a federal or state law enforcement, military, or intelligence agency may request the Commissioner of the Department of Public Safety to authorize the issuance of an identification document, identification card, or identification certificate which would otherwise be a violation of this section, to identify a law enforcement officer or agent as another person for the sole purpose of aiding in a criminal investigation or a military or intelligence operation. A person displaying or possessing such identification shall not be prosecuted for a violation of this section. Upon termination of the investigation or operation, the person to whom such identification document, identification card or

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identification certificate was issued shall return such identification to the Department of Public Safety.

SECTION 3. AMENDATORY 21 O.S. 2001, Section 1583, is amended to read as follows:

Section 1583. A. Every person who counterfeits any gold or silver coin, currency, check or other negotiable instrument, whether of the United States or any foreign government or country, with intent to sell, utter, use or circulate the same as genuine, within this state, is guilty of forgery in the second degree.

B. Any person who knowingly has possession, custody or control of at least ten elements used in the manufacturing of a counterfeit instrument, identification card or driver license, including but not limited to computers, printers, laminator machine, copier, blank lamination sheets or holders, seals, logos, nonnegotiated counterfeit checks or the like is presumed to be possessing said items with the intent to sell or distribute counterfeit instruments. Any person violating the provisions of this section shall be guilty of a misdemeanor.

SECTION 4. This act shall become effective November 1, 2007.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY, dated 02-22-07 - DO PASS, As Coauthored.

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