

1299

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT -- read once and referred to the Committee
on Codes

AN ACT to amend the penal law, in relation to identity theft

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 190.77 of the penal law, as sepa-
2 rately amended by chapters 226 and 279 of the laws of 2008, is amended
3 to read as follows:
4 1. For the purposes of sections 190.78, 190.79, 190.80 [and], 190.80-a
5 and 190.85 of this article "personal identifying information" means a
6 person's name, address, telephone number, date of birth, driver's
7 license number, social security number, place of employment, mother's
8 maiden name, financial services account number or code, savings account
9 number or code, checking account number or code, brokerage account
10 number or code, credit card account number or code, debit card number or
11 code, automated teller machine number or code, taxpayer identification
12 number, computer system password, signature or copy of a signature,
13 electronic signature, unique biometric data that is a fingerprint, voice
14 print, retinal image or iris image of another person THAT CAPTURE OR
15 ENABLE THE REPRODUCTION OF UNIQUE PHYSICAL ATTRIBUTES OF ANOTHER PERSON,
16 telephone calling card number, mobile identification number or code,
17 electronic serial number or personal identification number, or any other
18 name, number, code or information that may be used alone or in conjunc-
19 tion with other such information to assume the identity of another
20 person.
21 S 2. Section 190.80 of the penal law, as added by chapter 619 of the
22 laws of 2002, subdivision 4 as amended by chapter 279 of the laws of
23 2008, is amended to read as follows:
24 S 190.80 Identity theft in the first degree.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 A person is guilty of identity theft in the first degree when he or
2 she knowingly and with intent to defraud assumes the identity of another
3 person by presenting himself or herself as that other person, or by
4 acting as that other person or by using personal identifying information
5 of that other person OR WITH THE INTENT TO SELL OR DISTRIBUTE THE
6 PERSONAL IDENTIFYING INFORMATION OF THAT OTHER PERSON, and thereby:

7 1. obtains goods, money, property or services or uses credit in the
8 name of such other person in an aggregate amount that exceeds two thou-
9 sand dollars; or

10 2. causes financial loss to such person or to another person or
11 persons in an aggregate amount that exceeds two thousand dollars; or

12 3. commits or attempts to commit a class D felony or higher level
13 crime or acts as an accessory in the commission of a class D or higher
14 level felony; or

15 4. commits the crime of identity theft in the second degree as defined
16 in section 190.79 of this article and has been previously convicted
17 within the last five years of identity theft in the third degree as
18 defined in section 190.78, identity theft in the second degree as
19 defined in section 190.79, identity theft in the first degree as defined
20 in this section, unlawful possession of personal identification informa-
21 tion in the third degree as defined in section 190.81, unlawful
22 possession of personal identification information in the second degree
23 as defined in section 190.82, unlawful possession of personal identifi-
24 cation information in the first degree as defined in section 190.83,
25 unlawful possession of a skimmer device in the second degree as defined
26 in section 190.85, unlawful possession of a skimmer device in the first
27 degree as defined in section 190.86, grand larceny in the fourth degree
28 as defined in section 155.30, grand larceny in the third degree as
29 defined in section 155.35, grand larceny in the second degree as defined
30 in section 155.40 or grand larceny in the first degree as defined in
31 section 155.42 of this chapter[.]; OR

32 5. AVOIDS A SUMMONS, ARREST OR PROSECUTION OR IMPEDES A CRIMINAL
33 INVESTIGATION.

34 Identity theft in the first degree is a class D felony.

35 S 3. Section 190.81 of the penal law, as added by chapter 619 of the
36 laws of 2002, is amended to read as follows:

37 S 190.81 Unlawful possession of personal identification information in
38 the third degree.

39 A person is guilty of unlawful possession of personal identification
40 information in the third degree when he or she knowingly possesses a
41 person's financial services account number or code, savings account
42 number or code, checking account number or code, brokerage account
43 number or code, credit card account number or code, debit card number or
44 code, automated teller machine number or code, personal identification
45 number, mother's maiden name, computer system password, electronic
46 signature or unique biometric data that is a fingerprint, voice print,
47 retinal image or iris image of another person THAT CAPTURE OR ENABLE THE
48 REPRODUCTION OF UNIQUE PHYSICAL ATTRIBUTES OF ANOTHER PERSON knowing
49 such information is intended to be used in furtherance of the commission
50 of a crime defined in this chapter.

51 Unlawful possession of personal identification information in the
52 third degree is a class A misdemeanor.

53 S 4. Section 190.82 of the penal law, as added by chapter 619 of the
54 laws of 2002, is amended to read as follows:

55 S 190.82 Unlawful possession of personal identification information in
56 the second degree.

1 A person is guilty of unlawful possession of personal identification
2 information in the second degree when he or she knowingly possesses two
3 hundred fifty or more items of personal identification information of
4 the following nature: a person's financial services account number or
5 code, savings account number or code, checking account number or code,
6 brokerage account number or code, credit card account number or code,
7 debit card number or code, automated teller machine number or code,
8 personal identification number, mother's maiden name, computer system
9 password, electronic signature or unique biometric data that is a fing-
10 erprint, voice print, retinal image or iris image of another person THAT
11 CAPTURE OR ENABLE THE REPRODUCTION OF UNIQUE PHYSICAL ATTRIBUTES OF
12 ANOTHER PERSON knowing such information is intended to be used in furth-
13 erance of the commission of a crime defined in this chapter.

14 Unlawful possession of personal identification information in the
15 second degree is a class E felony.

16 S 5. This act shall take effect on the one hundred eightieth day after
17 it shall have become a law.