

10325

I N   A S S E M B L Y

May 22, 2012

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

AN ACT to amend the general business law and the penal law, in relation  
to creating a crime of retail sales receipt fraud or universal product  
code fraud

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

1     Section 1. The general business law is amended by adding three new  
2     sections 393-e, 393-f and 393-g to read as follows:  
3     S 393-E. RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN  
4     THE SECOND DEGREE. A PERSON IS GUILTY OF RETAIL SALES RECEIPT FRAUD OR  
5     UNIVERSAL PRODUCT CODE FRAUD IN THE SECOND DEGREE WHEN, WITH INTENT TO  
6     DECEIVE OR DEFRAUD A PERSON OR PERSONS ENGAGED IN THE RETAIL SALE OF  
7     GOODS OR SERVICES, HE OR SHE USES, TRANSFERS, MAKES, ALTERS, COUNTER-  
8     FEITS OR REPRODUCES A RETAIL SALES RECEIPT OR UNIVERSAL PRODUCT CODE  
9     KNOWING SUCH TO BE COUNTERFEIT.  
10     RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN THE  
11     SECOND DEGREE IS A CLASS A MISDEMEANOR.  
12     S 393-F. RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN  
13     THE FIRST DEGREE. A PERSON IS GUILTY OF RETAIL SALES RECEIPT FRAUD OR  
14     UNIVERSAL PRODUCT CODE FRAUD IN THE FIRST DEGREE WHEN, WITH INTENT TO  
15     DECEIVE OR DEFRAUD A PERSON OR PERSONS ENGAGED IN THE RETAIL SALE OF  
16     GOODS OR SERVICES, HE OR SHE USES, TRANSFERS, MAKES, ALTERS, COUNTER-  
17     FEITS OR REPRODUCES FIFTEEN OR MORE RETAIL SALES RECEIPTS OR UNIVERSAL  
18     PRODUCT CODES OR COMBINATION THEREOF KNOWING SUCH TO BE COUNTERFEIT.  
19     RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN THE  
20     FIRST DEGREE IS A CLASS E FELONY.  
21     S 393-G. POSSESSION OF A FRAUDULENT RETAIL SALES RECEIPT OR UNIVERSAL  
22     PRODUCT CODE MANUFACTURING DEVICE. A PERSON IS GUILTY OF POSSESSION OF  
23     A FRAUDULENT RETAIL SALES RECEIPT OR UNIVERSAL PRODUCT CODE MANUFACTUR-  
24     ING DEVICE WHEN, WITH INTENT TO DECEIVE OR DEFRAUD A PERSON OR PERSON  
25     ENGAGED IN THE RETAIL SALE OF GOODS OR SERVICES, HE OR SHE POSSESSES A  
26     DEVICE THAT MANUFACTURES FRAUDULENT RETAIL SALES RECEIPTS OR UNIVERSAL  
27     PRODUCT CODE LABELS.

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

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1 POSSESSION OF A FRAUDULENT RETAIL SALES RECEIPT OR UNIVERSAL PRODUCT  
2 CODE MANUFACTURING DEVICE IS A CLASS E FELONY.

3 S 2. The penal law is amended by adding three new sections 165.80,  
4 165.81 and 165.82 to read as follows:

5 S 165.80 RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN  
6 THE SECOND DEGREE.

7 A PERSON IS GUILTY OF RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT  
8 CODE FRAUD IN THE SECOND DEGREE WHEN, WITH INTENT TO DECEIVE OR DEFRAUD  
9 A PERSON OR PERSONS ENGAGED IN THE RETAIL SALE OF GOODS OR SERVICES, HE  
10 OR SHE USES, TRANSFERS, MAKES, ALTERS, COUNTERFEITS OR REPRODUCES A  
11 RETAIL SALES RECEIPT OR UNIVERSAL PRODUCT CODE KNOWING SUCH TO BE COUN-  
12 TERFEIT.

13 (1) THE TERM "RETAIL SALES RECEIPT" SHALL MEAN ANY HANDWRITTEN OR  
14 MACHINE OR COMPUTER PRODUCED DOCUMENT AS PROPERLY ISSUED BY A RETAILER  
15 TO ACKNOWLEDGE PAYMENT RECEIVED BY A CUSTOMER.

16 (2) THE TERM "UNIFORM PRODUCT CODE LABEL" SHALL MEAN ANY BAR CODE OR  
17 OTHER CODING SYSTEM DESIGNED TO BE READ BY COMPUTER WHICH CONTAINS PRIC-  
18 ING INFORMATION AND OTHER RELATED INFORMATION USED BY A RETAILER AND  
19 READ BY A COMPUTER AT POINT OF PURCHASE FOR PURPOSES OF ESTABLISHING THE  
20 SALE PRICE OF A GOOD.

21 RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN THE  
22 SECOND DEGREE IS A CLASS A MISDEMEANOR.

23 S 165.81 RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN  
24 THE FIRST DEGREE.

25 A PERSON IS GUILTY OF RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT  
26 CODE FRAUD IN THE FIRST DEGREE WHEN, WITH INTENT TO DECEIVE OR DEFRAUD A  
27 PERSON OR PERSONS ENGAGED IN THE RETAIL SALE OF GOODS OR SERVICES, HE OR  
28 SHE USES, TRANSFERS, MAKES, ALTERS, COUNTERFEITS OR REPRODUCES FIFTEEN  
29 OR MORE RETAIL SALES RECEIPTS OR UNIVERSAL PRODUCT CODES OR COMBINATION  
30 THEREOF KNOWING SUCH TO BE COUNTERFEIT.

31 (1) THE TERM "RETAIL SALES RECEIPT" SHALL MEAN ANY HANDWRITTEN OR  
32 MACHINE OR COMPUTER PRODUCED DOCUMENT AS PROPERLY ISSUED BY A RETAILER  
33 TO ACKNOWLEDGE PAYMENT RECEIVED BY A CUSTOMER.

34 (2) THE TERM "UNIFORM PRODUCT CODE LABEL" SHALL MEAN ANY BAR CODE OR  
35 OTHER CODING SYSTEM DESIGNED TO BE READ BY COMPUTER WHICH CONTAINS PRIC-  
36 ING INFORMATION AND OTHER RELATED INFORMATION USED BY A RETAILER AND  
37 READ BY A COMPUTER AT POINT OF PURCHASE FOR PURPOSES OF ESTABLISHING THE  
38 SALE PRICE OF A GOOD.

39 RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN THE  
40 FIRST DEGREE IS A CLASS E FELONY.

41 S 165.82 POSSESSION OF A FRAUDULENT RETAIL SALES RECEIPT OR UNIVERSAL  
42 PRODUCT CODE MANUFACTURING DEVICE.

43 A PERSON IS GUILTY OF POSSESSION OF A FRAUDULENT RETAIL SALES RECEIPT  
44 OR UNIVERSAL PRODUCT CODE MANUFACTURING DEVICE WHEN, WITH INTENT TO  
45 DECEIVE OR DEFRAUD A PERSON OR PERSON ENGAGED IN THE RETAIL SALE OF  
46 GOODS OR SERVICES, HE OR SHE POSSESSES A DEVICE THAT MANUFACTURES FRAU-  
47 DULENT RETAIL SALES RECEIPTS OR UNIVERSAL PRODUCT CODE LABELS.

48 (1) THE TERM "RETAIL SALES RECEIPT" SHALL MEAN ANY HANDWRITTEN OR  
49 MACHINE OR COMPUTER PRODUCED DOCUMENT AS PROPERLY ISSUED BY A RETAILER  
50 TO ACKNOWLEDGE PAYMENT RECEIVED BY A CUSTOMER.

51 (2) THE TERM "UNIFORM PRODUCT CODE LABEL" SHALL MEAN ANY BAR CODE OR  
52 OTHER CODING SYSTEM DESIGNED TO BE READ BY COMPUTER WHICH CONTAINS PRIC-  
53 ING INFORMATION AND OTHER RELATED INFORMATION USED BY A RETAILER AND  
54 READ BY A COMPUTER AT POINT OF PURCHASE FOR PURPOSES OF ESTABLISHING THE  
55 SALE PRICE OF A GOOD.

1       POSSESSION OF A FRAUDULENT RETAIL SALES RECEIPT OR UNIVERSAL PRODUCT  
2       CODE MANUFACTURING DEVICE IS A CLASS E FELONY.  
3       S 3. This act shall take effect on the first of November next succeed-  
4       ing the date on which it shall have become a law.