

2964

2011-2012 Regular Sessions

I N A S S E M B L Y

January 21, 2011

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 separately amended by chapters 226 and 279 of the laws of 2008, is amended
2 to read as follows:

3 1. For the purposes of sections 190.78, 190.79, 190.80 [and], 190.80-a
4 and 190.85 of this article "personal identifying information" means a
5 person's name, address, telephone number, date of birth, driver's
6 license number, social security number, place of employment, mother's
7 maiden name, financial services account number or code, savings account
8 number or code, checking account number or code, brokerage account
9 number or code, credit card account number or code, debit card number or
10 code, automated teller machine number or code, taxpayer identification
11 number, computer system password, signature or copy of a signature,
12 electronic signature, unique biometric data that is a fingerprint, voice
13 print, retinal image or iris image of another person THAT CAPTURE OR
14 ENABLE THE REPRODUCTION OF UNIQUE PHYSICAL ATTRIBUTES OF ANOTHER PERSON,
15 telephone calling card number, mobile identification number or code,
16 electronic serial number or personal identification number, or any other
17 name, number, code or information that may be used alone or in conjunction
18 with other such information to assume the identity of another
19 person.
20

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.

25 A person is guilty of identity theft in the first degree when he or
26 she knowingly and with intent to defraud assumes the identity of another

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

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1 person by presenting himself or herself as that other person, or by
2 acting as that other person or by using personal identifying information
3 of that other person OR WITH THE INTENT TO SELL OR DISTRIBUTE THE
4 PERSONAL IDENTIFYING INFORMATION OF THAT OTHER PERSON, and thereby:

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

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

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

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

30 5. AVOIDS A SUMMONS, ARREST OR PROSECUTION OR IMPEDES A CRIMINAL
31 INVESTIGATION.

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

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

35 S 190.81 Unlawful possession of personal identification information in
36 the third degree.

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

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

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

53 S 190.82 Unlawful possession of personal identification information in
54 the second degree.

55 A person is guilty of unlawful possession of personal identification
56 information in the second degree when he or she knowingly possesses two

1 hundred fifty or more items of personal identification information of
2 the following nature: a person's financial services account number or
3 code, savings account number or code, checking account number or code,
4 brokerage account number or code, credit card account number or code,
5 debit card number or code, automated teller machine number or code,
6 personal identification number, mother's maiden name, computer system
7 password, electronic signature or unique biometric data that is a fing-
8 erprint, voice print, retinal image or iris image of another person THAT
9 CAPTURE OR ENABLE THE REPRODUCTION OF UNIQUE PHYSICAL ATTRIBUTES OF
10 ANOTHER PERSON knowing such information is intended to be used in furth-
11 erance of the commission of a crime defined in this chapter.
12 Unlawful possession of personal identification information in the
13 second degree is a class E felony.
14 S 5. This act shall take effect on the one hundred eightieth day after
15 it shall have become a law.