

FIRST REGULAR SESSION

# SENATE BILL NO. 522

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROHRBACH.

Read 1st time March 1, 1999, and 1,000 copies ordered printed.

S0656.011

TERRY L. SPIELER, Secretary.

## AN ACT

To repeal sections 570.010 and 570.130, RSMo 1994, relating to debit services, and to enact in lieu thereof two new sections relating to the same subject.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 570.010 and 570.130, RSMo 1994, are repealed and two new sections enacted in lieu thereof, to be known as sections 570.010 and 570.130, to read as follows:

570.010. As used in this chapter:

(1) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage;

(2) "Appropriate" means to take, obtain, use, transfer, conceal or retain possession of;

(3) "Coercion" means a threat, however communicated:

(a) To commit any crime; or

(b) To inflict physical injury in the future on the person threatened or another; or

(c) To accuse any person of any crime; or

(d) To expose any person to hatred, contempt or ridicule; or

(e) To harm the credit or business repute of any person; or

(f) To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or

(g) To inflict any other harm which would not benefit the actor. A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat;

(4) "Credit device" means a writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;

(5) "Dealer" means a person in the business of buying and selling goods;

(6) **"Debit device" means a card, code, number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients;**

(7) "Deceit" means purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

**[(7)] (8)** "Deprive" means:

- (a) To withhold property from the owner permanently; or
- (b) To restore property only upon payment of reward or other compensation; or
- (c) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely;

**[(8)] (9)** "Misabeled" means varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage; or represented as being another person's product, though otherwise accurately labeled as to quality and quantity;

**[(9)] (10)** "Of another" property or services is that "of another" if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement;

**[(10)] (11)** "Property" means anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument;

**[(11)] (12)** "Receiving" means acquiring possession, control or title or lending on the security of the property;

**[(12)] (13)** "Services" includes transportation, telephone, electricity, gas, water, or other

public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles;

[(13)] (14) "Writing" includes printing, any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any other symbols of value, right, privilege or identification.

570.130. 1. A person commits the crime of fraudulent use of a credit device **or debit device** if [he] **the person** uses a credit device **or debit device** for the purpose of obtaining services or property, knowing that:

- (1) The device is stolen, fictitious or forged; or
- (2) The device has been revoked or canceled; or
- (3) For any other reason his use of the device is unauthorized.

2. Fraudulent use of a credit device **or debit device** is a class A misdemeanor unless the value of the property or services obtained or sought to be obtained within any thirty-day period is one hundred fifty dollars or more, in which case fraudulent use of a credit device **or debit device** is a class D felony.

✓  
Bill

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