

IC 35-43-5

Chapter 5. Forgery, Fraud, and Other Deceptions

IC 35-43-5-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 1 of this chapter by P.L.84-2001 are intended to specify that the scope of the amended terms includes retail sales receipts, universal product codes (UPC), and other product identification codes. The amendment of these definitions shall not be construed to mean that these terms did not cover retail sales receipts, universal product codes (UPC), and other product identification codes before July 1, 2001.

As added by P.L.220-2011, SEC.599. Amended by P.L.63-2012, SEC.53.

IC 35-43-5-1

Definitions

Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Claim statement" means an insurance policy, a document, or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy, or other evidence of expense, injury, or loss. The term includes statements made orally, in writing, or electronically, including the following:

- (1) An account.
- (2) A bill for services.
- (3) A bill of lading.
- (4) A claim.
- (5) A diagnosis.
- (6) An estimate of property damages.
- (7) A hospital record.
- (8) An invoice.
- (9) A notice.
- (10) A proof of loss.
- (11) A receipt for payment.
- (12) A physician's records.
- (13) A prescription.
- (14) A statement.
- (15) A test result.
- (16) X-rays.

(c) "Coin machine" means a coin box, vending machine, or other mechanical or electronic device or receptacle designed:

- (1) to receive a coin, bill, or token made for that purpose; and
- (2) in return for the insertion or deposit of a coin, bill, or token automatically:
 - (A) to offer, provide, or assist in providing; or
 - (B) to permit the acquisition of;
some property.

(d) "Credit card" means an instrument or device (whether known as a credit card or charge plate, or by any other name) issued by an

issuer for use by or on behalf of the credit card holder in obtaining property.

(e) "Credit card holder" means the person to whom or for whose benefit the credit card is issued by an issuer.

(f) "Customer" means a person who receives or has contracted for a utility service.

(g) "Drug or alcohol screening test" means a test that:

(1) is used to determine the presence or use of alcohol, a controlled substance, or a drug in a person's bodily substance; and

(2) is administered in the course of monitoring a person who is:

(A) incarcerated in a prison or jail;

(B) placed in a community corrections program;

(C) on probation or parole;

(D) participating in a court ordered alcohol or drug treatment program; or

(E) on court ordered pretrial release.

(h) "Entrusted" means held in a fiduciary capacity or placed in charge of a person engaged in the business of transporting, storing, lending on, or otherwise holding property of others.

(i) "Identifying information" means information that identifies a person, including a person's:

(1) name, address, date of birth, place of employment, employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

(2) unique biometric data, including the person's fingerprint, voice print, or retina or iris image;

(3) unique electronic identification number, address, or routing code;

(4) telecommunication identifying information; or

(5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access that may be used to:

(A) obtain money, goods, services, or any other thing of value; or

(B) initiate a transfer of funds.

(j) "Insurance policy" includes the following:

(1) An insurance policy.

(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-1-27).

(3) A written agreement entered into under IC 27-1-25.

(k) "Insurer" has the meaning set forth in IC 27-1-2-3(x). The term also includes the following:

(1) A reinsurer.

(2) A purported insurer or reinsurer.

(3) A broker.

(4) An agent of an insurer, a reinsurer, a purported insurer or reinsurer, or a broker.

(5) A health maintenance organization.

(6) A limited service health maintenance organization.

(l) "Manufacturer" means a person who manufactures a recording. The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.

(m) "Make" means to draw, prepare, complete, counterfeit, copy or otherwise reproduce, or alter any written instrument in whole or in part.

(n) "Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.

(o) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes township assistance, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

(p) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:

(1) An original:

(A) phonograph record;

(B) compact disc;

(C) wire;

(D) tape;

(E) audio cassette;

(F) video cassette; or

(G) film.

(2) Any other medium on which sounds or visual images are or can be recorded or otherwise stored.

(3) A copy or reproduction of an item in subdivision (1) or (2) that duplicates an original recording in whole or in part.

(q) "Slug" means an article or object that is capable of being deposited in a coin machine as an improper substitute for a genuine coin, bill, or token.

(r) "Synthetic identifying information" means identifying information that identifies:

(1) a false or fictitious person;

(2) a person other than the person who is using the information;
or

(3) a combination of persons described under subdivisions (1) and (2).

(s) "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the production, storage, transmission, sale, or delivery of electricity, water, steam, telecommunications, information, or gas.

(t) "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail

sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.

As added by Acts 1976, P.L.148, SEC.3. Amended by Acts 1977, P.L.340, SEC.49; P.L.321-1983, SEC.4; P.L.182-1984, SEC.3; P.L.180-1991, SEC.8; P.L.216-1991, SEC.1; P.L.193-1991, SEC.2; P.L.247-1993, SEC.1; P.L.150-1994, SEC.2; P.L.2-1995, SEC.127; P.L.84-2001, SEC.2; P.L.180-2001, SEC.1; P.L.22-2003, SEC.1; P.L.160-2003, SEC.27; P.L.73-2005, SEC.170; P.L.171-2005, SEC.1; P.L.181-2005, SEC.5; P.L.137-2009, SEC.13.

IC 35-43-5-2

Counterfeiting; false or fraudulent sales receipts; forgery; application fraud

Sec. 2. (a) A person who knowingly or intentionally:

(1) makes or utters a written instrument in such a manner that it purports to have been made:

(A) by another person;

(B) at another time;

(C) with different provisions; or

(D) by authority of one who did not give authority; or

(2) possesses more than one (1) written instrument knowing that the written instruments were made in a manner that they purport to have been made:

(A) by another person;

(B) at another time;

(C) with different provisions; or

(D) by authority of one who did not give authority;

commits counterfeiting, a Level 6 felony.

(b) A person who, with intent to defraud:

(1) makes or delivers to another person:

(A) a false sales receipt;

(B) a duplicate of a sales receipt; or

(C) a label or other item with a false universal product code (UPC) or other product identification code; or

(2) places a false universal product code (UPC) or another product identification code on property displayed or offered for sale;

commits making or delivering a false sales document, a Level 6 felony.

(c) A person who, with intent to defraud, possesses:

(1) a retail sales receipt;

(2) a label or other item with a universal product code (UPC); or

(3) a label or other item that contains a product identification code that applies to an item other than the item to which the label or other item applies;

commits possession of a fraudulent sales document, a Class A misdemeanor. However, the offense is a Level 6 felony if the person possesses at least fifteen (15) retail sales receipts, at least fifteen (15) labels containing a universal product code (UPC), at least fifteen (15)

labels containing another product identification code, or at least fifteen (15) of any combination of the items described in subdivisions (1) through (3).

(d) A person who, with intent to defraud, makes, utters, or possesses a written instrument in such a manner that it purports to have been made:

- (1) by another person;
- (2) at another time;
- (3) with different provisions; or
- (4) by authority of one who did not give authority;

commits forgery, a Level 6 felony.

(e) This subsection applies to a person who applies for a driver's license (as defined in IC 9-13-2-48) or a state identification card (as described in IC 9-24-16). A person who:

- (1) knowingly or intentionally uses a false or fictitious name or gives a false or fictitious address in an application for a driver's license or a state identification card or for a renewal or a duplicate of a driver's license or a state identification card; or
- (2) knowingly or intentionally makes a false statement or conceals a material fact in an application for a driver's license or a state identification card;

commits application fraud, a Level 6 felony.

As added by Acts 1976, P.L.148, SEC.3. Amended by Acts 1977, P.L.340, SEC.50; P.L.45-2005, SEC.2; P.L.106-2006, SEC.3; P.L.158-2013, SEC.469.

IC 35-43-5-2.5

False government issued identification

Sec. 2.5. A person who knowingly or intentionally possesses, produces, or distributes a document not issued by a government entity that purports to be a government issued identification commits a Class A misdemeanor.

As added by P.L.109-2006, SEC.1.

IC 35-43-5-3

Deception

Sec. 3. (a) A person who:

- (1) being an officer, manager, or other person participating in the direction of a credit institution, knowingly or intentionally receives or permits the receipt of a deposit or other investment, knowing that the institution is insolvent;
- (2) knowingly or intentionally makes a false or misleading written statement with intent to obtain property, employment, or an educational opportunity;
- (3) misapplies entrusted property, property of a governmental entity, or property of a credit institution in a manner that the person knows is unlawful or that the person knows involves substantial risk of loss or detriment to either the owner of the property or to a person for whose benefit the property was entrusted;

(4) knowingly or intentionally, in the regular course of business, either:

(A) uses or possesses for use a false weight or measure or other device for falsely determining or recording the quality or quantity of any commodity; or

(B) sells, offers, or displays for sale or delivers less than the represented quality or quantity of any commodity;

(5) with intent to defraud another person furnishing electricity, gas, water, telecommunication, or any other utility service, avoids a lawful charge for that service by scheme or device or by tampering with facilities or equipment of the person furnishing the service;

(6) with intent to defraud, misrepresents the identity of the person or another person or the identity or quality of property;

(7) with intent to defraud an owner of a coin machine, deposits a slug in that machine;

(8) with intent to enable the person or another person to deposit a slug in a coin machine, makes, possesses, or disposes of a slug;

(9) disseminates to the public an advertisement that the person knows is false, misleading, or deceptive, with intent to promote the purchase or sale of property or the acceptance of employment;

(10) with intent to defraud, misrepresents a person as being a physician licensed under IC 25-22.5;

(11) knowingly and intentionally defrauds another person furnishing cable TV service by avoiding paying compensation for that service by any scheme or device or by tampering with facilities or equipment of the person furnishing the service; or

(12) knowingly or intentionally provides false information to a governmental entity to obtain a contract from the governmental entity;

commits deception, a Class A misdemeanor. However, an offense under subdivision (12) is a Level 6 felony if the provision of false information results in financial loss to the governmental entity.

(b) In determining whether an advertisement is false, misleading, or deceptive under subsection (a)(9), there shall be considered, among other things, not only representations contained or suggested in the advertisement, by whatever means, including device or sound, but also the extent to which the advertisement fails to reveal material facts in the light of the representations.

(c) A person who knowingly or intentionally falsely represents:

(1) any entity as:

(A) a disadvantaged business enterprise (as defined in IC 5-16-6.5-1); or

(B) a women-owned business enterprise (as defined in IC 5-16-6.5-3);

in order to qualify for certification as such an enterprise under a program conducted by a public agency (as defined in IC 5-16-6.5-2) designed to assist disadvantaged business

enterprises or women-owned business enterprises in obtaining contracts with public agencies for the provision of goods and services; or

(2) an entity with which the person will subcontract all or part of a contract with a public agency (as defined in IC 5-16-6.5-2) as:

(A) a disadvantaged business enterprise (as defined in IC 5-16-6.5-1); or

(B) a women-owned enterprise (as defined in IC 5-16-16.5-3);

in order to qualify for certification as an eligible bidder under a program that is conducted by a public agency designed to assist disadvantaged business enterprises or women-owned business enterprises in obtaining contracts with public agencies for the provision of goods and services;

commits a Level 6 felony.

As added by Acts 1976, P.L.148, SEC.3. Amended by Acts 1977, P.L.340, SEC.51; Acts 1978, P.L.144, SEC.5; P.L.182-1984, SEC.4; P.L.237-1989, SEC.2; P.L.247-1993, SEC.2; P.L.222-1996, SEC.1; P.L.158-2013, SEC.470.

IC 35-43-5-3.5

Identity deception

Sec. 3.5. (a) Except as provided in subsection (c), a person who knowingly or intentionally obtains, possesses, transfers, or uses the identifying information of another person, including the identifying information of a person who is deceased:

(1) without the other person's consent; and

(2) with intent to:

(A) harm or defraud another person;

(B) assume another person's identity; or

(C) profess to be another person;

commits identity deception, a Level 6 felony.

(b) However, the offense defined in subsection (a) is a Level 5 felony if:

(1) a person obtains, possesses, transfers, or uses the identifying information of more than one hundred (100) persons;

(2) the fair market value of the fraud or harm caused by the offense is at least fifty thousand dollars (\$50,000); or

(3) a person obtains, possesses, transfers, or uses the identifying information of a person who is less than eighteen (18) years of age and is:

(A) the person's son or daughter;

(B) a dependent of the person;

(C) a ward of the person; or

(D) an individual for whom the person is a guardian.

(c) The conduct prohibited in subsections (a) and (b) does not apply to:

(1) a person less than twenty-one (21) years of age who uses the identifying information of another person to acquire an

alcoholic beverage (as defined in IC 7.1-1-3-5);

(2) a minor (as defined in IC 35-49-1-4) who uses the identifying information of another person to acquire:

(A) a cigarette, an electronic cigarette (as defined in IC 35-46-1-1.5), or a tobacco product (as defined in IC 6-7-2-5);

(B) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);

(C) admittance to a performance (live or film) that prohibits the attendance of the minor based on age; or

(D) an item that is prohibited by law for use or consumption by a minor; or

(3) any person who uses the identifying information for a lawful purpose.

(d) It is not a defense in a prosecution under subsection (a) or (b) that no person was harmed or defrauded.

As added by P.L.180-2001, SEC.2. Amended by P.L.22-2003, SEC.2; P.L.125-2006, SEC.9; P.L.137-2009, SEC.14; P.L.20-2013, SEC.3; P.L.158-2013, SEC.471.

IC 35-43-5-3.6

Terroristic deception

Sec. 3.6. A person who knowingly or intentionally obtains, possesses, transfers, or uses the identifying information of another person with intent to:

(1) commit terrorism; or

(2) obtain or transport a weapon of mass destruction;

commits terroristic deception, a Level 5 felony.

As added by P.L.123-2002, SEC.38. Amended by P.L.158-2013, SEC.472.

IC 35-43-5-3.7

Notario publico deception

Sec. 3.7. A person who violates IC 33-42-2-10 commits notario publico deception, a Class A misdemeanor.

As added by P.L.85-2007, SEC.3.

IC 35-43-5-3.8

Synthetic identity deception

Sec. 3.8. (a) A person who knowingly or intentionally obtains, possesses, transfers, or uses the synthetic identifying information:

(1) with intent to harm or defraud another person;

(2) with intent to assume another person's identity; or

(3) with intent to profess to be another person;

commits synthetic identity deception, a Level 6 felony.

(b) The offense under subsection (a) is a Level 5 felony if:

(1) a person obtains, possesses, transfers, or uses the synthetic identifying information of more than one hundred (100) persons; or

(2) the fair market value of the fraud or harm caused by the offense is at least fifty thousand dollars (\$50,000).

(c) The conduct prohibited in subsections (a) and (b) does not apply to:

(1) a person less than twenty-one (21) years of age who uses the synthetic identifying information of another person to acquire an alcoholic beverage (as defined in IC 7.1-1-3-5); or

(2) a minor (as defined in IC 35-49-1-4) who uses the synthetic identifying information of another person to acquire:

(A) a cigarette or tobacco product (as defined in IC 6-7-2-5);

(B) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);

(C) admittance to a performance (live or on film) that prohibits the attendance of the minor based on age; or

(D) an item that is prohibited by law for use or consumption by a minor.

(d) It is not a defense in a prosecution under subsection (a) or (b) that no person was harmed or defrauded.

As added by P.L.137-2009, SEC.15. Amended by P.L.158-2013, SEC.473.

IC 35-43-5-4

Fraud

Sec. 4. A person who:

(1) with intent to defraud, obtains property by:

(A) using a credit card, knowing that the credit card was unlawfully obtained or retained;

(B) using a credit card, knowing that the credit card is forged, revoked, or expired;

(C) using, without consent, a credit card that was issued to another person;

(D) representing, without the consent of the credit card holder, that the person is the authorized holder of the credit card; or

(E) representing that the person is the authorized holder of a credit card when the card has not in fact been issued;

(2) being authorized by an issuer to furnish property upon presentation of a credit card, fails to furnish the property and, with intent to defraud the issuer or the credit card holder, represents in writing to the issuer that the person has furnished the property;

(3) being authorized by an issuer to furnish property upon presentation of a credit card, furnishes, with intent to defraud the issuer or the credit card holder, property upon presentation of a credit card, knowing that the credit card was unlawfully obtained or retained or that the credit card is forged, revoked, or expired;

(4) not being the issuer, knowingly or intentionally sells a credit card;

- (5) not being the issuer, receives a credit card, knowing that the credit card was unlawfully obtained or retained or that the credit card is forged, revoked, or expired;
- (6) with intent to defraud, receives a credit card as security for debt;
- (7) receives property, knowing that the property was obtained in violation of subdivision (1) of this section;
- (8) with intent to defraud the person's creditor or purchaser, conceals, encumbers, or transfers property;
- (9) with intent to defraud, damages property; or
- (10) knowingly or intentionally:
 - (A) sells;
 - (B) rents;
 - (C) transports; or
 - (D) possesses;

a recording for commercial gain or personal financial gain that does not conspicuously display the true name and address of the manufacturer of the recording;

commits fraud, a Level 6 felony.

As added by Acts 1976, P.L.148, SEC.3. Amended by Acts 1977, P.L.340, SEC.52; Acts 1978, P.L.82, SEC.3; P.L.180-1991, SEC.9; P.L.193-1991, SEC.3; P.L.1-1992, SEC.180; P.L.180-2001, SEC.3; P.L.181-2005, SEC.6; P.L.158-2013, SEC.474.

IC 35-43-5-4.3

Unlawful possession of a card skimming device

Sec. 4.3. (a) As used in this section, "card skimming device" means a device that is designed to read information encoded on a credit card. The term includes a device designed to read, record, or transmit information encoded on a credit card:

- (1) directly from a credit card; or
- (2) from another device that reads information directly from a credit card.

(b) A person who possesses a card skimming device with intent to commit:

- (1) identity deception (IC 35-43-5-3.5);
- (2) synthetic identity deception (IC 35-43-5-3.8);
- (3) fraud (IC 35-43-5-4); or
- (4) terroristic deception (IC 35-43-5-3.6);

commits unlawful possession of a card skimming device. Unlawful possession of a card skimming device under subdivision (1), (2), or (3) is a Level 6 felony. Unlawful possession of a card skimming device under subdivision (4) is a Level 5 felony.

As added by P.L.125-2006, SEC.10. Amended by P.L.137-2009, SEC.16; P.L.158-2013, SEC.475.

IC 35-43-5-4.5

Insurance fraud; insurance application fraud

Sec. 4.5. (a) A person who, knowingly and with intent to defraud:

- (1) makes, utters, presents, or causes to be presented to an

insurer or an insurance claimant, a claim statement that contains false, incomplete, or misleading information concerning the claim;

(2) presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, an oral, a written, or an electronic statement that the person knows to contain materially false information as part of, in support of, or concerning a fact that is material to:

- (A) the rating of an insurance policy;
- (B) a claim for payment or benefit under an insurance policy;
- (C) premiums paid on an insurance policy;
- (D) payments made in accordance with the terms of an insurance policy;
- (E) an application for a certificate of authority;
- (F) the financial condition of an insurer; or
- (G) the acquisition of an insurer;

or conceals any information concerning a subject set forth in clauses (A) through (G);

(3) solicits or accepts new or renewal insurance risks by or for an insolvent insurer or other entity regulated under IC 27;

(4) removes:

- (A) the assets;
- (B) the record of assets, transactions, and affairs; or
- (C) a material part of the assets or the record of assets, transactions, and affairs;

of an insurer or another entity regulated under IC 27, from the home office, other place of business, or place of safekeeping of the insurer or other regulated entity, or conceals or attempts to conceal from the department of insurance assets or records referred to in clauses (A) through (B); or

(5) diverts funds of an insurer or another person in connection with:

- (A) the transaction of insurance or reinsurance;
- (B) the conduct of business activities by an insurer or another entity regulated under IC 27; or
- (C) the formation, acquisition, or dissolution of an insurer or another entity regulated under IC 27;

commits insurance fraud. Except as provided in subsection (b), insurance fraud is a Level 6 felony.

(b) An offense described in subsection (a) is a Level 5 felony if:

(1) the person who commits the offense has a prior unrelated conviction under this section; or

(2) the:

- (A) value of property, services, or other benefits obtained or attempted to be obtained by the person as a result of the offense; or
- (B) economic loss suffered by another person as a result of the offense;

is at least two thousand five hundred dollars (\$2,500).

(c) A person who knowingly and with intent to defraud makes a

material misstatement in support of an application for the issuance of an insurance policy commits insurance application fraud, a Class A misdemeanor.

As added by P.L.181-2005, SEC.7. Amended by P.L.158-2013, SEC.476.

IC 35-43-5-4.6

Unlawful sale or possession of a transaction manipulation device

Sec. 4.6. (a) The following definitions apply throughout this section:

(1) "Automated sales suppression device" means a software program:

- (A) carried on a memory stick or removable compact disc;
- (B) accessed through an Internet link; or
- (C) accessed through any other means;

that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including transaction data and transaction reports.

(2) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or a computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in any manner.

(3) "Phantom-ware" means a hidden, a pre-installed, or an installed at a later time programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that:

- (A) can be used to create a virtual second till; or
- (B) may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register.

(4) "Transaction data" includes information regarding:

- (A) items purchased by a customer;
- (B) the price for each item;
- (C) a taxability determination for each item;
- (D) a segregated tax amount for each of the taxed items;
- (E) the amount of cash or credit tendered;
- (F) the net amount returned to the customer in change;
- (G) the date and time of the purchase;
- (H) the name, address, and identification number of the vendor; and
- (I) the receipt or invoice number of the transaction.

(5) "Transaction report" means:

- (A) a report that includes:
 - (i) the sales;
 - (ii) taxes collected;
 - (iii) media totals; and
 - (iv) discount voids;

at an electronic cash register that is printed on cash register

tape at the end of a day or shift; or

(B) a report documenting every action at an electronic cash register that is stored electronically.

(6) "Zapper" refers to an automated sales suppression device.

(b) A person who knowingly or intentionally sells, purchases, installs, transfers, or possesses:

(1) an automated sales suppression device or a zapper; or

(2) phantom-ware;

after June 30, 2013, commits unlawful sale or possession of a transaction manipulation device, a Level 5 felony.

As added by P.L.293-2013(ts), SEC.43. Amended by P.L.168-2014, SEC.78.

IC 35-43-5-5

Check deception

Sec. 5. (a) A person who knowingly or intentionally issues or delivers a check, a draft, or an order on a credit institution for the payment of or to acquire money or other property, knowing that it will not be paid or honored by the credit institution upon presentment in the usual course of business, commits check deception, a Class A misdemeanor. However, the offense is:

(1) a Level 6 felony if the amount of the check, draft, or order is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000); and

(2) a Level 5 felony if the amount of the check, draft, or order is at least fifty thousand dollars (\$50,000).

(b) An unpaid and dishonored check, a draft, or an order that has the drawee's refusal to pay and reason printed, stamped, or written on or attached to it constitutes prima facie evidence:

(1) that due presentment of it was made to the drawee for payment and dishonor thereof; and

(2) that it properly was dishonored for the reason stated.

(c) The fact that a person issued or delivered a check, a draft, or an order, payment of which was refused by the drawee, constitutes prima facie evidence that the person knew that it would not be paid or honored. In addition, evidence that a person had insufficient funds in or no account with a drawee credit institution constitutes prima facie evidence that the person knew that the check, draft, or order would not be paid or honored.

(d) The following two (2) items constitute prima facie evidence of the identity of the maker of a check, draft, or order if at the time of its acceptance they are obtained and recorded, either on the check, draft, or order itself or on file, by the payee:

(1) Name and residence, business, or mailing address of the maker.

(2) Motor vehicle operator's license number, Social Security number, home telephone number, or place of employment of the maker.

(e) It is a defense under subsection (a) if a person who:

(1) has an account with a credit institution but does not have

sufficient funds in that account; and
(2) issues or delivers a check, a draft, or an order for payment on that credit institution;
pays the payee or holder the amount due, together with protest fees and any service fee or charge, which may not exceed the greater of twenty-seven dollars and fifty cents (\$27.50) or five percent (5%) (but not more than two hundred fifty dollars (\$250)) of the amount due, that may be charged by the payee or holder, within ten (10) days after the date of mailing by the payee or holder of notice to the person that the check, draft, or order has not been paid by the credit institution. Notice sent in the manner set forth in IC 26-2-7-3 constitutes notice to the person that the check, draft, or order has not been paid by the credit institution. The payee or holder of a check, draft, or order that has been dishonored incurs no civil or criminal liability for sending notice under this subsection.

- (f) A person does not commit a crime under subsection (a) when:
- (1) the payee or holder knows that the person has insufficient funds to ensure payment or that the check, draft, or order is postdated; or
 - (2) insufficiency of funds or credit results from an adjustment to the person's account by the credit institution without notice to the person.

As added by Acts 1978, P.L.144, SEC.6. Amended by Acts 1981, P.L.303, SEC.1; P.L.268-1983, SEC.2; P.L.328-1983, SEC.1; P.L.298-1989, SEC.1; P.L.42-1993, SEC.96; P.L.300-1995, SEC.1; P.L.85-2003, SEC.1; P.L.158-2013, SEC.477.

IC 35-43-5-6

Utilizing a device or scheme to avoid being assessed for full amount of services received from utility or cable TV service provider

Sec. 6. (a) A customer who utilizes any device or scheme to avoid being assessed for the full amount of services received from a utility or a cable TV service provider commits a Class B infraction.

(b) Evidence that a customer's metering device has been altered, removed, or bypassed without the knowledge of or notification to the utility is prima facie evidence that the customer has utilized a device or scheme to avoid being assessed for the full amount of services received from the utility.

(c) Evidence that access to services of a utility or a cable TV service provider has been obtained without authority from the utility or the cable TV service provider constitutes prima facie evidence that the person benefiting from the access has utilized a device or scheme to avoid being assessed for the full amount of services received from the utility or the cable TV service provider.

As added by P.L.321-1983, SEC.5. Amended by P.L.324-1985, SEC.1.

IC 35-43-5-6.5

Sale of kit or device for unauthorized use of cable television system services

Sec. 6.5. (a) A person who manufactures, distributes, sells, leases, or offers for sale or lease:

- (1) a device; or
- (2) a kit of parts to construct a device;

designed in whole or in part to intercept, unscramble, or decode a transmission by a cable television system with the intent that the device or kit be used to obtain cable television system services without full payment to the cable television system commits a Level 6 felony.

(b) The sale or distribution by a person of:

- (1) any device; or
- (2) a kit of parts to construct a device;

described in subsection (a) constitutes prima facie evidence of a violation of subsection (a) if, before or at the time of sale or distribution, the person advertised or indicated that the device or the assembled kit will enable a person to receive cable television system service without making full payment to the cable television system. *As added by P.L.222-1996, SEC.2. Amended by P.L.158-2013, SEC.478.*

IC 35-43-5-7

Welfare fraud

Sec. 7. (a) A person who knowingly or intentionally:

- (1) obtains public relief or assistance by means of impersonation, fictitious transfer, false or misleading oral or written statement, fraudulent conveyance, or other fraudulent means;
- (2) acquires, possesses, uses, transfers, sells, trades, issues, or disposes of:

(A) an authorization document to obtain public relief or assistance; or

(B) public relief or assistance;

except as authorized by law;

(3) uses, transfers, acquires, issues, or possesses a blank or incomplete authorization document to participate in public relief or assistance programs, except as authorized by law;

(4) counterfeits or alters an authorization document to receive public relief or assistance, or knowingly uses, transfers, acquires, or possesses a counterfeit or altered authorization document to receive public relief or assistance; or

(5) conceals information for the purpose of receiving public relief or assistance to which he is not entitled;

commits welfare fraud, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense is:

(1) a Level 6 felony if the amount of public relief or assistance involved is more than seven hundred fifty dollars (\$750) but less than fifty thousand dollars (\$50,000); and

(2) a Level 5 felony if the amount of public relief or assistance involved is at least fifty thousand dollars (\$50,000).

(c) Whenever a person is convicted of welfare fraud under this section, the clerk of the sentencing court shall certify to the appropriate state agency and the appropriate agency of the county of the defendant's residence:

- (1) the defendant's conviction; and
- (2) whether the defendant is placed on probation and restitution is ordered under IC 35-38-2.

As added by P.L.182-1984, SEC.5. Amended by P.L.158-2013, SEC.479.

IC 35-43-5-7.1

Medicaid fraud

Sec. 7.1. (a) Except as provided in subsection (b), a person who knowingly or intentionally:

- (1) files a Medicaid claim, including an electronic claim, in violation of IC 12-15;
- (2) obtains payment from the Medicaid program under IC 12-15 by means of a false or misleading oral or written statement or other fraudulent means;
- (3) acquires a provider number under the Medicaid program except as authorized by law;
- (4) alters with the intent to defraud or falsifies documents or records of a provider (as defined in 42 CFR 1000.30) that are required to be kept under the Medicaid program; or
- (5) conceals information for the purpose of applying for or receiving unauthorized payments from the Medicaid program;

commits Medicaid fraud, a Class A misdemeanor.

(b) The offense described in subsection (a) is:

- (1) a Level 6 felony if the fair market value of the offense is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000); and
- (2) a Level 5 felony if the fair market value of the offense is at least fifty thousand dollars (\$50,000).

As added by P.L.10-1994, SEC.8. Amended by P.L.273-1999, SEC.179; P.L.1-2006, SEC.531; P.L.158-2013, SEC.480.

IC 35-43-5-7.2

Insurance fraud

Sec. 7.2. (a) Except as provided in subsection (b), a person who knowingly or intentionally:

- (1) files a children's health insurance program claim, including an electronic claim, in violation of IC 12-17.6;
- (2) obtains payment from the children's health insurance program under IC 12-17.6 by means of a false or misleading oral or written statement or other fraudulent means;
- (3) acquires a provider number under the children's health insurance program except as authorized by law;
- (4) alters with intent to defraud or falsifies documents or records of a provider (as defined in 42 CFR 1002.301) that are required to be kept under the children's health insurance program; or

(5) conceals information for the purpose of applying for or receiving unauthorized payments from the children's health insurance program;

commits insurance fraud, a Class A misdemeanor.

(b) The offense described in subsection (a) is:

(1) a Level 6 felony if the fair market value of the offense is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000); and

(2) a Level 5 felony if the fair market value of the offense is at least fifty thousand dollars (\$50,000).

As added by P.L.273-1999, SEC.180. Amended by P.L.158-2013, SEC.481.

IC 35-43-5-7.3

Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 35-43-5-8

Fraud on financial institutions

Sec. 8. (a) A person who knowingly executes, or attempts to execute, a scheme or artifice:

(1) to defraud a state or federally chartered or federally insured financial institution; or

(2) to obtain any of the money, funds, credits, assets, securities, or other property owned by or under the custody or control of a state or federally chartered or federally insured financial institution by means of false or fraudulent pretenses, representations, or promises;

commits a Level 5 felony.

(b) As used in this section, the term "state or federally chartered or federally insured financial institution" means:

(1) an institution with accounts insured by the Federal Deposit Insurance Corporation;

(2) a credit union with accounts insured by the National Credit Union Administration Board;

(3) a federal home loan bank or a member, as defined in Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), as in effect on December 31, 1990, of the Federal Home Loan Bank System; or

(4) a bank, banking association, land bank, intermediate credit bank, bank for cooperatives, production credit association, land bank association, mortgage association, trust company, savings bank, or other banking or financial institution organized or operating under the laws of the United States or of the state.

The term does not include a lender licensed under IC 24-4.5.

As added by P.L.187-1984, SEC.1. Amended by P.L.8-1991, SEC.35; P.L.10-2006, SEC.80 and P.L.57-2006, SEC.80; P.L.158-2013, SEC.482.

IC 35-43-5-9

Repealed

(Repealed by P.L.158-2013, SEC.483.)

IC 35-43-5-10

Repealed

(Repealed by P.L.247-1993, SEC.3.)

IC 35-43-5-11

Repealed

(Repealed by P.L.158-2013, SEC.484.)

IC 35-43-5-12

Check fraud

Sec. 12. (a) As used in this section, "financial institution" refers to a state or federally chartered bank, savings bank, savings association, or credit union.

(b) A person who knowingly or intentionally obtains property, through a scheme or artifice, with intent to defraud:

(1) by issuing or delivering a check, a draft, an electronic debit, or an order on a financial institution:

(A) knowing that the check, draft, order, or electronic debit will not be paid or honored by the financial institution upon presentment in the usual course of business;

(B) using false or altered evidence of identity or residence;

(C) using a false or an altered account number; or

(D) using a false or an altered check, draft, order or electronic instrument;

(2) by:

(A) depositing the minimum initial deposit required to open an account; and

(B) either making no additional deposits or making insufficient additional deposits to insure debits to the account; or

(3) by opening accounts with more than one (1) financial institution in either a consecutive or concurrent time period;

commits check fraud, a Class A misdemeanor.

(c) However, an offense under subsection (b) is:

(1) a Level 6 felony if the aggregate amount of property obtained is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000); and

(2) a Level 5 felony if the aggregate amount of the property obtained is at least fifty thousand dollars (\$50,000).

As added by P.L.161-1994, SEC.1. Amended by P.L.79-1998, SEC.105; P.L.158-2013, SEC.485.

IC 35-43-5-13

Deception involving out of hospital do not resuscitate declarations

Sec. 13. Certain offenses concerning forgery and other deceptions involving out of hospital do not resuscitate declarations and orders are described in IC 16-36-5.

As added by P.L.148-1999, SEC.13.

IC 35-43-5-14

Repealed

(Repealed by P.L.158-2013, SEC.486.)

IC 35-43-5-15

Possession of a fraudulent sales document manufacturing device

Sec. 15. A person who, with intent to defraud, possesses a device to make retail sales receipts, universal product codes (UPC), or other product identification codes, commits possession of a fraudulent sales document manufacturing device, a Class A misdemeanor.

As added by P.L.84-2001, SEC.4.

IC 35-43-5-16

Making a false sales document

Sec. 16. A person who, with intent to defraud:

- (1) makes or puts a false universal product code (UPC) or another product identification code on property displayed or offered for sale; or
- (2) makes a false sales receipt;

commits making a false sales document, a Level 6 felony.

As added by P.L.84-2001, SEC.5. Amended by P.L.158-2013, SEC.487.

IC 35-43-5-17

Repealed

(Repealed by P.L.158-2013, SEC.488.)

IC 35-43-5-18

Possession of device or substance to interfere with drug or alcohol screening test

Sec. 18. A person who knowingly or intentionally possesses a:

- (1) device; or
- (2) substance;

designed or intended to be used to interfere with a drug or alcohol screening test commits possession of a device or substance used to interfere with a drug or alcohol screening test, a Class B misdemeanor.

As added by P.L.171-2005, SEC.2.

IC 35-43-5-19

Interfering with drug or alcohol screening test

Sec. 19. A person who interferes with or attempts to interfere with a drug or alcohol screening test by:

- (1) using a:
 - (A) device; or
 - (B) substance;
- (2) substituting a human bodily substance that is tested in a drug or alcohol screening test; or

(3) adulterating a substance used in a drug or alcohol screening test;
commits interfering with a drug or alcohol screening test, a Class B misdemeanor.
As added by P.L.171-2005, SEC.3.

IC 35-43-5-20

Inmate fraud

Sec. 20. (a) As used in this section, "inmate" means a person who is confined in:

- (1) the custody of:
 - (A) the department of correction; or
 - (B) a sheriff;
- (2) a county jail; or
- (3) a secure juvenile facility.

(b) An inmate who:

- (1) is a pretrial detainee; and
- (2) with the intent of obtaining money or other property from a person who is not an inmate, knowingly or intentionally:
 - (A) makes a misrepresentation to a person who is not an inmate and obtains or attempts to obtain money or other property from the person who is not an inmate; or
 - (B) obtains or attempts to obtain money or other property from the person who is not an inmate through a misrepresentation made by another person;

commits inmate fraud, a Level 6 felony.

(c) An inmate:

- (1) who is incarcerated because the inmate has been:
 - (A) convicted of an offense; or
 - (B) adjudicated a delinquent; and
- (2) who, with the intent of obtaining money or other property from a person who is not an inmate, knowingly or intentionally:
 - (A) makes a misrepresentation to a person who is not an inmate and obtains or attempts to obtain money or other property from the person who is not an inmate; or
 - (B) obtains or attempts to obtain money or other property from the person who is not an inmate through a misrepresentation made by another person;

commits inmate fraud, a Level 5 felony.

As added by P.L.81-2008, SEC.5. Amended by P.L.158-2013, SEC.489.