

CS FOR HOUSE BILL NO. 338(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/11/00
Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to crimes and offenses involving aural representations, recordings,
2 computers, access devices, other technology, and identification documents; relating
3 to the crime of criminal impersonation; and providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 11.41.455(a) is amended to read:

6 (a) A person commits the crime of unlawful exploitation of a minor if, in the
7 state and with the intent of producing a live performance, film, audio, video,
8 electronic, or electromagnetic recording, photograph, negative, slide, book,
9 newspaper, magazine, or other [PRINTED] material that visually or aurally depicts
10 the conduct listed in (1) - (7) of this subsection, the person knowingly induces or
11 employs a child under 18 years of age to engage in, or photographs, films, records, or
12 televises a child under 18 years of age engaged in, the following actual or simulated
13 conduct:

14 (1) sexual penetration;

- 1 (2) the lewd touching of another person's genitals, anus, or breast;
 2 (3) the lewd touching by another person of the child's genitals, anus,
 3 or breast;
 4 (4) masturbation;
 5 (5) bestiality;
 6 (6) the lewd exhibition of the child's genitals; or
 7 (7) sexual masochism or sadism.

8 * **Sec. 2.** AS 11.41.455(b) is amended to read:

9 (b) A parent, legal guardian, or person having custody or control of a child
 10 under 18 years of age commits the crime of unlawful exploitation of a minor if, in the
 11 state, the person permits the child to engage in conduct described in (a) of this section
 12 knowing that the conduct is intended to be used in producing a live performance, film,
 13 audio, **video, electronic, or electromagnetic** recording, photograph, negative, slide,
 14 book, newspaper, magazine, or other printed **or electronically recorded** material that
 15 visually **or aurally** depicts the conduct.

16 * **Sec. 3.** AS 11.46.140(a) is amended to read:

17 (a) A person commits the crime of theft in the third degree if the person
 18 commits theft as defined in AS 11.46.100 and
 19 (1) the value of the property or services is \$50 or more but less than
 20 \$500;
 21 (2) the property is **an access device** [A CREDIT CARD]; or
 22 (3) the value of the property is less than \$50 and, within the past five
 23 years, the person has been convicted and sentenced on two or more separate occasions
 24 in this or another jurisdiction of theft or concealment of merchandise, or an offense
 25 under another law or ordinance with similar elements.

26 * **Sec. 4.** AS 11.46.285 is amended to read:

27 **Sec. 11.46.285. Fraudulent use of an access device [A CREDIT CARD].**
 28 (a) A person commits the crime of fraudulent use of **an access device** [A CREDIT
 29 CARD] if, with intent to defraud, the person uses **an access device** [A CREDIT
 30 CARD] to obtain property or services with knowledge that
 31 (1) the **access device** [CARD] is stolen or forged;

1 (2) the **access device** [CARD] is expired or has been revoked or
2 cancelled; or

3 (3) for any other reason, that person's use of the **access device** [CARD]
4 is unauthorized by either the issuer or the person to whom the **access device** [CREDIT
5 CARD] is issued.

6 (b) Fraudulent use of **an access device** [A CREDIT CARD] is

7 (1) **a class B felony if the value of the property or services obtained**
8 **is \$25,000 or more;**

9 (2) a class C felony if the value of the property or services obtained is
10 \$500 or more **but less than \$25,000;**

11 (3) [(2)] a class A misdemeanor if the value of the property or services
12 obtained is \$50 or more but less than \$500;

13 (4) [(3)] a class B misdemeanor if the value of the property or services
14 obtained is less than \$50.

15 * **Sec. 5.** AS 11.46.290 is amended to read:

16 **Sec. 11.46.290. Obtaining an access device or identification document [A**
17 **CREDIT CARD] by fraudulent means.** (a) A person commits the crime of
18 obtaining **an access device or identification document** [A CREDIT CARD] by
19 fraudulent means if

20 (1) the person buys **an access device or identification document** [A
21 CREDIT CARD] from a person other than the issuer or, as other than the issuer, the
22 person sells **an access device or identification document** [A CREDIT CARD];

23 (2) with intent to defraud, the person obtains **an access device or**
24 **identification document** [CONTROL OF A CREDIT CARD AS A SECURITY FOR
25 DEBT]; or

26 (3) with intent to defraud, the person makes a false statement in an
27 application for **an access device or identification document** [A CREDIT CARD].

28 (b) [OBTAINING A CREDIT CARD BY FRAUDULENT MEANS UNDER
29 (a)(1) OR (2) OF THIS SECTION IS A CLASS C FELONY.] Obtaining **an access**
30 **device or identification document** [A CREDIT CARD] by fraudulent means [UNDER
31 (a)(3) OF THIS SECTION] is a class A misdemeanor.

1 * **Sec. 6.** AS 11.46 is amended by adding a new section to read:

2 **Sec. 11.46.565. Criminal impersonation in the first degree.** (a) A person
3 commits the crime of criminal impersonation in the first degree if the person

4 (1) possesses an access device or identification document of another
5 person;

6 (2) without authorization of the other person, uses the access device or
7 identification document of the other person to obtain a false identification document,
8 open an account at a financial institution, obtain an access device, or obtain property;
9 and

10 (3) recklessly damages the financial reputation of the other person.

11 (b) Criminal impersonation in the first degree is a class B felony.

12 * **Sec. 7.** AS 11.46.570 is amended to read:

13 **Sec. 11.46.570. Criminal impersonation in the second degree.** (a) A person
14 commits the crime of criminal impersonation **in the second degree** if the person

15 (1) assumes a false identity and does an act in the assumed character
16 with intent to **obtain a benefit to which the person is not entitled or to** defraud; or

17 (2) pretends to be a representative of some person or organization and
18 does an act in the pretended capacity with intent to **obtain a benefit to which the**
19 **person is not entitled or to** defraud.

20 (b) Criminal impersonation **in the second degree** is a class A misdemeanor.

21 * **Sec. 8.** AS 11.46.630(b)(1) is amended to read:

22 (1) "business record" means a writing, **a recording, electronic data,**
23 or **an** article kept or maintained by an enterprise for the purpose of evidencing or
24 reflecting its condition or activity;

25 * **Sec. 9.** AS 11.46.710(c) is amended to read:

26 (c) **Except as provided in (d) of this section, deceptive** [DECEPTIVE]
27 business practices is a class A misdemeanor.

28 * **Sec. 10.** AS 11.46.710 is amended by adding a new subsection to read:

29 (d) Deceptive business practices is a class C felony if the person uses the
30 Internet or a computer network to commit the offense. In this subsection, "Internet"
31 means the combination of computer systems or networks that make up the international

1 network for interactive communications services, including remote logins, file transfer,
2 electronic mail, and newsgroups.

3 * **Sec. 11.** AS 11.46.740(a) is amended to read:

4 (a) A person commits the offense of criminal use of a computer if, having no
5 right to do so or any reasonable ground to believe the person has such a right, the
6 person knowingly accesses, [OR] causes to be accessed, **or exceeds the person's**
7 **authorized access to** a computer, computer system, computer program, computer
8 network, or any part of a computer system or network, and, as a result of **or in the**
9 **course of** that access,

10 (1) obtains information concerning a person; [OR]

11 (2) introduces false information into a computer, computer system,
12 **computer program,** or computer network with the intent to damage or enhance the
13 data record **or the financial reputation** of a person;

14 **(3) introduces false information into a computer, computer system,**
15 **computer program, or computer network and, with criminal negligence, damages**
16 **or enhances the data record or the financial reputation of a person;**

17 **(4) obtains proprietary information of another person;**

18 **(5) obtains information that is only available to the public for a fee;**

19 **(6) introduces instructions, a computer program, or other**
20 **information that tampers with, disrupts, disables, or destroys a computer,**
21 **computer system, computer program, computer network, or any part of a**
22 **computer system or network; or**

23 **(7) encrypts or decrypts data.**

24 * **Sec. 12.** AS 11.46.740 is amended by adding a new subsection to read:

25 (c) In this section, "proprietary information" means scientific, technical, or
26 commercial information, including a design, process, procedure, customer list, supplier
27 list, or customer records that the holder of the information has not made available to
28 the public.

29 * **Sec. 13.** AS 11.46.990 is amended by adding a new paragraph to read:

30 (14) "financial reputation" means a person's

31 (A) ability to obtain a loan from a financial institution, open an

1 account with a financial institution, obtain property or services on credit, or
2 obtain an access device; or

3 (B) creditworthiness in a credit report.

4 * **Sec. 14.** AS 11.61.125(d) is amended to read:

5 (d) In this section, "distribution" includes delivering, selling, renting, leasing,
6 lending, giving, circulating, exhibiting, presenting, providing, [AND] exchanging, **and**
7 **placing on a computer network or computer system**, whether or not for monetary
8 or other consideration.

9 * **Sec. 15.** AS 11.81.900(b)(48) is amended to read:

10 (48) "property" means an article, substance, or thing of value, including
11 money, tangible and intangible personal property including data or information stored
12 in a computer program, system, or network, real property, **an access device** [A
13 CREDIT CARD], a domestic pet or livestock regardless of value, choses-in-action, and
14 evidence of debt or of contract; a commodity of a public utility such as gas, electricity,
15 steam, or water constitutes property, but the supplying of such a commodity to
16 premises from an outside source by means of wires, pipes, conduits, or other
17 equipment is considered a rendition of a service rather than a sale or delivery of
18 property;

19 * **Sec. 16.** AS 11.81.900(b) is amended by adding new paragraphs to read:

20 (61) "access device" means a card, credit card, plate, code, account
21 number, algorithm, or identification number, including a social security number,
22 electronic serial number, or password, that is capable of being used, alone or in
23 conjunction with another access device or identification document, to obtain property
24 or services, or that can be used to initiate a transfer of property;

25 (62) "identification document" means a paper, instrument, or other
26 article used to establish the identity of a person; "identification document" includes a
27 social security card, driver's license, non-driver's identification, birth certificate,
28 passport, employee identification, or hunting or fishing license.

29 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section
30 to read:

31 **APPLICABILITY.** This Act applies to offenses committed or completed on or after

1 the effective date of this Act.

2 * **Sec. 18.** This Act takes effect immediately under AS 01.10.070(c).