

CREDIT CARD CRIMES:
RECEIVING ANYTHING OF VALUE KNOWING IT WAS
OBTAINED IN VIOLATION OF 2C:21-6f

N.J.S.A. 2C:21-6g

Count ____ of the indictment charges the defendant as follows:

(Read Count ____ of the Indictment.)

The applicable section of the statute reads as follows:

A person who receives money, good, services or anything else of value obtained by the unlawful use of a credit card, knowing or believing that it was so obtained is guilty of a crime.

In order to find the defendant guilty, the State must prove the following elements beyond a reasonable doubt:

1. That the defendant received money, goods, services or anything else of value.
2. That the money, goods, services, or anything else of value was obtained by the unlawful use of a credit card.
3. That the defendant did so knowing or believing that the money, goods, services or anything else of value was so obtained.

The first element that the State must prove beyond a reasonable doubt is that the defendant received money, goods, service or anything else of value.

The second element that the State must prove beyond a reasonable doubt is that the money, goods, services or anything else of value was obtained by the unlawful use of a credit card.

“Receives” or “receiving” means acquiring possession or control or accepting a credit card as security for a loan.

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“Possession” signifies a knowing, intentional control of a designated thing, accompanied by a knowledge of its character.

[Charge: Model Jury Charge on Possession.]

The third element that the State must prove beyond a reasonable doubt is that the defendant received the money, goods, services or anything else of value knowing or believing that it was so obtained.

A person acts “knowingly” with respect to a result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result. A person acts knowingly with respect to the nature of his/her conduct if he/she is aware that his/her conduct is of that nature. “Knowing,” “with knowledge” or equivalent terms have the same meaning.

Knowledge is a condition of the mind which cannot be seen and can only be determined by inferences from conduct, words or acts. It is not necessary for the State to produce a witness or witnesses who could testify that the defendant acted knowingly.

[Charge, If Applicable]

If you find that the defendant obtained at a discount price a ticket issued by an airline, railroad, steamship or other transportation company which was acquired without reasonable inquiry to ascertain that the person from whom it was obtained had a legal right to possess it, you may infer, if you think it appropriate to do so, based upon the facts presented, that such ticket was acquired by the unlawful use of a credit card.¹

¹ In the appropriate case, the jury may be advised that such inference may be made from the presence of the facts set forth in 2C:21-6g if there is a factual basis to do so in the evidence, State v. Humphrey, 183 N.J. Super. 580 (Law Division 1982) or, under State in Interest of L.L.A., 178 N.J. Super. 555 (J.D.R.Ct. 1980), but it must be made clear that the inference is permissive, not conclusive; that it must be considered along with all other evidence in the case; and that it in no way shifts the burden of proof from the State to the defendant. See State v. Bott, 53 N.J. 391 and State v. DiRienzo, 53 N.J. 360 (1969) and particularly the additional instructions and comments to Model Charge 2.271 under N.J.S.A. 2A:139-1. See also 2C:1-13e and Evid. R.15.

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If you find that the State has proven all of the above elements required beyond a reasonable doubt, then you must find the defendant guilty of the crime charged.

If, however, you find that the State has failed to prove any of the elements of the crime beyond a reasonable doubt, you must then find the defendant not guilty.