

CREDIT CARD CRIMES:
CREDIT CARD THEFT (MAKE OR EMBOSS)

N.J.S.A. 2C:21-6c(5)

The defendant is charged with Credit Card Theft. Specifically,

(Read Count ____ of Indictment)

The application section of the statute reads as follows:

A person who, with intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value, or any other person, falsely makes or falsely embosses a purported credit card or utters such a credit card is guilty of a crime.

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

1. That the defendant falsely made or falsely embossed a purported credit card or uttered such a credit card and;
2. That the defendant acted with intent to defraud a purported issuer, a person or organization providing money, goods, services, or anything else of value, or any other person.

The first element that the State must prove beyond a reasonable doubt is that the defendant falsely made or falsely embossed a purported credit card or uttered such a credit card.

“Credit card” means any tangible or intangible instrument or device issued with or without a fee by an issuer that can be used, alone or in connection with another means of account access, in obtaining money, goods, services or anything else of value on credit, including credit cards, credit plates, account numbers, or any other means of account access.

“Issuer” means the business organization or financial institution which issues a credit card or its duly authorized agent.

“Cardholder” means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

A person “falsely makes” a credit card when he/she makes or draws, in whole or in part, a device or instrument which purports to be the credit card of a named issuer but which is not such a credit card because the issuer did not authorize the making or drawing, or when he/she alters a credit card which was validly issued.

A person “falsely embosses” a credit card when, without the authorization of the named issuer, he/she completes a credit card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder.

A person “utters” such a credit card when he/she offers or tenders, transfers or otherwise attempts to pass such a credit card, or where he/she uses or attempts to use such a credit card.

“To defraud” means to deprive a person of property or any interest, estate, or right by deceit or artifice, to cheat.

“Issuer” means the business organization or financial institution which issues a credit card or its duly authorized agent.

The second element that the State must prove beyond a reasonable doubt is that the defendant acted with intent to defraud the issuer, or a person or organization providing money, goods, services, or anything else of value, or any other person.

A person acts with intent when he/she acts with purpose. A person acts purposely with respect to the nature of his/her conduct or a result thereof if it is his/her conscious objective to engage in conduct of that nature or to cause such a result. A person acts purposely with respect

to attendant circumstances if he/she is aware of the existence of such circumstances or believes or hopes that they exist. One can be deemed to be acting purposely if he/she acts with design, with a purpose, with a particular objective, if the individual means to do what he/she does.

Purpose 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 defendant acted purposely.

[Charge, if Applicable]

Proof that the defendant had in his/her possession two or more credit cards which were falsely made or falsely embossed may give rise to the inference that the defendant acted with fraudulent intent.¹

If you find that the State has proven all of the above elements 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.

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:21-6c(5) 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 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.