

CREDIT CARD CRIMES:
CREDIT CARD THEFT (RECEIVING)
N.J.S.A. 2C:21-6c(1)

The defendant is charged with Credit Card Theft.

Specially,

(Read Count _____ of Indictment)

The applicable section of the statute provides as follows:

A person who receives a credit card, with knowledge that it has been taken from the person, possession, custody or control of another without the cardholder's consent with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder 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 received a credit card;
2. That the credit card had been taken or obtained from the person, possession, custody or control of another without the cardholder's consent.
3. That when the defendant received the credit card the defendant had knowledge that the credit card had been taken without the cardholder's consent and;
4. That the defendant received the card with the intent to use it, or to sell it, or to transfer it to a person other than the issuer or the cardholder.

The first element that the State must prove beyond a reasonable doubt is that the defendant received a credit card.

"To receive" means acquiring possession or control or accepting a credit card as security for a loan.

“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.

The second element that the State must prove beyond a reasonable doubt is that the credit card had been taken or obtained from the person, possession, custody or control of another without the cardholder’s consent.

“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.

“Consent” is the voluntary agreement by the cardholder to the taking of the card.

Proof that defendant had in his/her possession or under his/her control (a) credit cards issued in the names of two or more other persons or, (b) two or more stolen credit cards may give rise to an inference that the defendant received a credit card with knowledge that it was taken or obtained without consent and with an intent to use it, or to sell it, or to transfer it to a person other than the issuer of the cardholder.¹

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

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:21-6(c)(1) if there is a factual basis to do so in the evidence, State v. Humphrey, 183 N.J. Super. 580 (Law Div. 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 the other evidence in the case; and that it in no way shifts the burden of proof from 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.

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.

The third element that the State must prove beyond a reasonable doubt is that when the defendant received the credit card the defendant had knowledge that the credit card had been taken without the cardholder’s consent.

The fourth element that the State must prove beyond a reasonable doubt is that the defendant received the card with the intent to use it, or to sell it, or to transfer it to a person other than the issuer or the cardholder.

A person “with intent” when he/she does an act 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 act 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 the defendant acted purposely.

If you find that the State has proven each and every one of the above elements beyond a reasonable doubt, you must then 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 of the crime charged.