

CREDIT CARD CRIMES:
CREDIT CARD THEFT

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

The defendant is charged with Credit Card Theft. Specifically,

(Read Count ____ of Indictment)

The applicable section of the statute read as follows:

A person who received a credit card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession 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 at the time the defendant received the credit card the defendant knew that it had been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder and;
3. That the defendant retained possession of the credit 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.

“Possession” signified a knowing, intentional control of a designated thing, accompanied

by a knowledge of its character.

[Charge: Model Jury Charge on Possession]

“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. Something is said to be “sold” when it is disposed of by sale. The term “transferred” means that something is passed or handed over from one to another.

The second element that the State must prove beyond a reasonable doubt is that at the time the defendant received the credit card the defendant knew that it had been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder.

“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 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.

The third element that the State must prove beyond a reasonable doubt is that the defendant retained possession of the credit card with the intent to use it or to sell it or to transfer it to a person other than the issuer or cardholder.

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.

If the State has proven each element of this offense beyond a reasonable doubt then you must find the defendant guilty of the charge of credit card theft.

If the State has failed to prove any of the elements of this offense beyond a reasonable doubt, then you must find the defendant not guilty of the charge of credit card theft.