

## รายการอ้างอิง

### ภาษาไทย

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ภาคผนวก

United State of America

Identity Theft and Assumption Deterrence Act of 1998

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE

CHAPTER 47 – FRAUD AND FALSE STATEMENTS

Sec. 1028      Fraud and Related Activity in Connection with Identification Documents and Information.

(a) Whoever, in a circumstance described in subsection (c) of this section -

- (1) knowingly and without lawful authority produces an identification document or a false identification document;
- (2) knowingly transfers an identification document or a false identification document knowing that such document was stolen or produced without lawful authority;
- (3) knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor) or false identification documents;
- (4) knowingly possesses an identification document (other than one issued lawfully for the use of the possessor) or a false identification document, with the intent such document be used to defraud the United States;
- (5) knowingly produces, transfers, or possesses a document-making implement with the intent such document-making implement will be used in the production of a false identification document or another document-making implement which will be so used;
- (6) knowingly possesses an identification document that is or appears to be an identification document of the United States

which is stolen or produced without lawful authority knowing that such document was stolen or produced without such authority; or (7) knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law; shall be punished as provided in subsection (b) of this section.

### **The Credit Card Fraud Act of 1984**

#### TITLE 18 - CRIMES AND CRIMINAL PROCEDURE

##### CHAPTER 47 – FRAUD AND FALSE STATEMENTS

#### Sec. 1029 Fraud and related activity in connection with access devices

##### (a) Whoever

- (1) knowingly and with intent to defraud produces, uses, or traffics in one or more counterfeit access devices;
- (2) knowingly and with intent to defraud traffics in or uses one or more unauthorized access devices during any one-year period, and by such conduct obtains anything of value aggregating \$1,000 or more during that period;
- (3) knowingly and with intent to defraud possesses fifteen or more devices which are counterfeit or unauthorized access devices;
- (4) knowingly, and with intent to defraud, produces, traffics in, has control or custody of, or possesses device-making equipment;
- (5) knowingly and with intent to defraud effects transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during

any 1-year period the aggregate value of which is equal to or greater than \$1,000;

(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of -

(A) offering an access device; or

(B) selling information regarding or an application to obtain an access device;

(7) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a telecommunications instrument that has been modified or altered to obtain unauthorized use of telecommunications services;

(8) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a scanning receiver;

(9) knowingly uses, produces, traffics in, has control or custody of, or possesses hardware or software, knowing it has been configured to insert or modify telecommunication identifying information associated with or contained in a telecommunications instrument so that such instrument may be used to obtain telecommunications service without authorization; or

(10) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device; shall, if the offense affects interstate or foreign commerce, be punished as provided in subsection (c) of this section.



The Computer Fraud and Abuse Act of 1986

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE

CHAPTER 47 – FRAUD AND FALSE STATEMENTS

**Sec. 1030      Fraud and related activity in connection with computers**

(a) Whoever

- (1) having knowingly accessed a computer without authorization or exceeding authorized access, and by means of such conduct having obtained information that has been determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data, as defined in paragraph y. of section 11 of the Atomic Energy Act of 1954, with reason to believe that such information so obtained could be used to the injury of the United States, or to the advantage of any foreign nation willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it;
- (2) intentionally accesses a computer without authorization or exceeds authorized access, and thereby obtains -

- (A) information contained in a financial record of a financial institution, or of a card issuer as defined in section 1602(n) of title 15, or contained in a file of a consumer reporting agency on a consumer, as such terms are

defined in the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

(B) information from any department or agency of the United States; or

(C) information from any protected computer if the conduct involved an interstate or foreign communication;

(3) intentionally, without authorization to access any nonpublic computer of a department or agency of the United States, accesses such a computer of that department or agency that is exclusively for the use of the Government of the United States or, in the case of a computer not exclusively for such use, is used by or for the Government of the United States and such conduct affects that use by or for the Government of the United States;

(4) knowingly and with intent to defraud, accesses a protected computer without authorization, or exceeds authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value, unless the object of the fraud and the thing obtained consists only of the use of the computer and the value of such use is not more than \$5,000 in any 1-year period;

(5)

(A) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;

(B) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or

(C) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage;

(6) knowingly and with intent to defraud traffics (as defined in section 1029) in any password or similar information through which a computer may be accessed without authorization, if -

- (A) such trafficking affects interstate or foreign commerce;
- or
- (B) such computer is used by or for the Government of the United States;<sup>[1]</sup>

(7) with intent to extort from any person, firm, association, educational institution, financial institution, government entity, or other legal entity, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to cause damage to a protected computer; shall be punished as provided in subsection (c) of this section.

#### Fair Credit Billing Act

### TITLE 15 - COMMERCE AND TRADE

#### CHAPTER 41 - CONSUMER CREDIT PROTECTION

##### SUBCHAPTER I - CONSUMER CREDIT COST DISCLOSURE

Sec. 1643      Liability of holder of credit card

(a) Limits on liability

(1) A cardholder shall be liable for the unauthorized use of a credit card only if -

- (A) the card is an accepted credit card;
- (B) the liability is not in excess of \$50;
- (C) the card issuer gives adequate notice to the cardholder of the potential liability;
- (D) the card issuer has provided the cardholder with a description of a means by which the card issuer may be notified of loss or theft of the card, which description may be provided

on the face or reverse side of the statement required by section 1637(b) of this title or on a separate notice accompanying such statement;

(E) the unauthorized use occurs before the card issuer has been notified that an unauthorized use of the credit card has occurred or may occur as the result of loss, theft, or otherwise; and

(F) the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it.

(2) For purposes of this section, a card issuer has been notified when such steps as may be reasonably required in the ordinary course of of business to provide the card issuer with the pertinent information have been taken, whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.

(b) Burden of proof

In any action by a card issuer to enforce liability for the use of a credit card, the burden of proof is upon the card issuer to show that the use was authorized or, if the use was unauthorized, then the burden of proof is upon the card issuer to show that the conditions of liability for the unauthorized use of a credit card, as set forth in subsection (a) of this section, have been met.

(c) Liability imposed by other laws or by agreement with issuer

Nothing in this section imposes liability upon a cardholder for the unauthorized use of a credit card in excess of his liability for such use under other applicable law or under any agreement with the card issuer.

(d) Exclusiveness of liability

Except as provided in this section, a cardholder incurs no liability from the unauthorized use of a credit card.

Sec. 1666 Correction of billing errors

(a) Written notice by obligor to creditor; time for and contents of notice; procedure upon receipt of notice by creditor

If a creditor, within sixty days after having transmitted to an obligor a statement of

the obligor's account in connection with an extension of consumer credit, receives at the address disclosed under section 1637(b)(10) of this title a written notice (other than notice on a payment stub or other payment medium supplied by the creditor if the creditor so stipulates with the disclosure required under section 1637(a)(7) of this title) from the obligor in which the obligor -

- (1) sets forth or otherwise enables the creditor to identify the name and account number (if any) of the obligor,
- (2) indicates the obligor's belief that the statement contains a billing error and the amount of such billing error, and
- (3) sets forth the reasons for the obligor's belief (to the extent applicable) that the statement contains a billing error, the creditor shall, unless the obligor has, after giving such written notice and before the expiration of the time limits herein specified, agreed that the statement was correct -

(A) not later than thirty days after the receipt of the notice, send a written acknowledgment thereof to the obligor, unless the action required in subparagraph (B) is taken within such thirty-day period, and

(B) not later than two complete billing cycles of the creditor (in no event later than ninety days) after the receipt of the notice and prior to taking any action to collect the amount, or any part thereof, indicated by the obligor under paragraph (2) either -

- (i) make appropriate corrections in the account of the obligor, including the crediting of any finance charges on amounts erroneously billed, and transmit to the obligor a notification of such corrections and the creditor's explanation of any change in the amount indicated by the obligor under paragraph (2) and, if any such change is made and the obligor so requests, copies of documentary evidence of the obligor's indebtedness; or

(ii) send a written explanation or clarification to the obligor, after having conducted an investigation, setting forth to the extent applicable the reasons why the creditor believes the account of the obligor was correctly shown in the statement and, upon request of the obligor, provide copies of documentary evidence of the obligor's indebtedness. In the case of a billing error where the obligor alleges that the creditor's billing statement reflects goods not delivered to the obligor or his designee in accordance with the agreement made at the time of the transaction, a creditor may not construe such amount to be correctly shown unless he determines that such goods were actually delivered, mailed, or otherwise sent to the obligor and provides the obligor with a statement of such determination. After complying with the provisions of this subsection with respect to an alleged billing error, a creditor has no further responsibility under this section if the obligor continues to make substantially the same allegation with respect to such error.

(b) Billing error

For the purpose of this section, a "billing error" consists of any of the following:

- (1) A reflection on a statement of an extension of credit which was not made to the obligor or, if made, was not in the amount reflected on such statement.
- (2) A reflection on a statement of an extension of credit for which the obligor requests additional clarification including documentary evidence thereof.
- (3) A reflection on a statement of goods or services not accepted by the obligor or his designee or not delivered to the obligor or his designee in accordance with the agreement made at the time of a transaction.

(4) The creditor's failure to reflect properly on a statement a payment made by the obligor or a credit issued to the obligor.

(5) A computation error or similar error of an accounting nature of the creditor on a statement.

(6) Failure to transmit the statement required under section 1637(b) of this title to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.

(7) Any other error described in regulations of the Board.

(c) Action by creditor to collect amount or any part thereof regarded by obligor to be a billing error

For the purposes of this section, "action to collect the amount, or any part thereof, indicated by an obligor under paragraph (2)" does not include the sending of statements of account, which may include finance charges on amounts in dispute, to the obligor following written notice from the obligor as specified under subsection (a) of this section, if -

(1) the obligor's account is not restricted or closed because of the failure of the obligor to pay the amount indicated under paragraph (2) of subsection (a) of this section, and

(2) the creditor indicates the payment of such amount is not required pending the creditor's compliance with this section. Nothing in this section shall be construed to prohibit any action by a creditor to collect any amount which has not been indicated by the obligor to contain a billing error.

(d) Restricting or closing by creditor of account regarded by obligor to contain a billing error

Pursuant to regulations of the Board, a creditor operating an open end consumer credit plan may not, prior to the sending of the written explanation or clarification required under paragraph (B)(ii), restrict or close an account with respect to which the obligor has indicated pursuant to subsection (a) of this section that he believes such account to contain a billing error solely because of the obligor's failure to pay

- the amount indicated to be in error. Nothing in this subsection shall be deemed to prohibit a creditor from applying against the credit limit on the obligor's account the amount indicated to be in error.

(e) Effect of noncompliance with requirements by creditor

Any creditor who fails to comply with the requirements of this section or section 1666a of this title forfeits any right to collect from the obligor the amount indicated by the obligor under paragraph (2) of subsection (a) of this section, and any finance charges thereon, except that the amount required to be forfeited under this subsection may not exceed \$50.



## United Kingdom

### Computer misuse Act of 1990

#### Computer misuse offences

##### 1. Unauthorized access to computer material.

(1) A person is guilty of an offence if-

- a. he causes a computer to perform any function with intent to secure access to any program or data held in any computer;
- b. the access he intends to secure is unauthorized; and
- c. he knows at the time when he causes the computer to perform the function that that is the case.

(2) The intent a person has to have to commit an offence under this section need not be directed at-

- a. any particular program or data;
- b. a program or data of any particular kind; or
- c. a program or data held in any particular computer.

(3) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

##### 2. Unauthorized access with intent to commit or facilitate commission of further offences.

(1) A person is guilty of an offence under this section if he commits an offence under section 1 above ("the unauthorized access offence") with intent-

- a. to commit an offence to which this section applies; or
- b. to facilitate the commission of such an offence (whether by himself or by any other person);

and the offence he intends to commit or facilitate is referred to below in this section as the further offence. 1980 c.43.

(2) This section applies to offences-

- a. for which the sentence is fixed by law; or

- b. for which a person of twenty-one years of age or over (not previously convicted) may be sentenced to imprisonment for a term of five years (or, in England and Wales, might be so sentenced but for the restrictions imposed by section 33 of the Magistrates' Courts Act 1980).

(3) It is immaterial for the purposes of this section whether the further offence is to be committed on the same occasion as the unauthorized access offence or on any future occasion.

(4) A person may be guilty of an offence under this section even though the facts are such that the commission of the further offence is impossible.

(5) A person guilty of an offence under this section shall be liable-

- a. on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both; and
- b. on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

### 3. Unauthorized modification of Computer material

(1) A person is guilty of an offence if-

- a. he does any act which causes an unauthorized modification of the contents of any computer; and
- b. at the time when he does the act he has the requisite intent and the requisite knowledge.

(2) For the purposes of subsection (1)(b) above the requisite intent is an intent to cause a modification of the contents of any computer and by so doing-

- a. to impair the operation of any computer;
- b. to prevent or hinder access to any program or data held in any computer; or
- c. to impair the operation of any such program or the reliability of any such data.

(3) The intent need not be directed at-

- a. any particular computer;
- b. any particular program or data or a program or data of any particular kind; or
- c. any particular modification or a modification of any particular kind.

(4) For the purposes of subsection (1)(b) above the requisite knowledge is knowledge that any modification he intends to cause is unauthorized.

(5) It is immaterial for the purposes of this section whether an unauthorized modification or any intended effect of it of a kind mentioned in subsection (2) above is, or is intended to be, permanent or merely temporary. 1971 c.48

(6) For the purposes of the Criminal Damage Act 1971 a modification of the contents of a computer shall not be regarded as damaging any computer or computer storage medium unless its effect on that computer or computer storage medium impairs its physical condition.

(7) A person guilty of an offence under this section shall be liable-

- a. on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both; and
- b. on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

## ประวัติผู้เขียน

นายวุฒิพงศ์ เถาว์ฉนะ เกิดวันที่ 10 พฤษภาคม 2515 ที่กรุงเทพมหานคร สำเร็จการศึกษาปริญญาวิทยาศาสตรบัณฑิต จากคณะนิติศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย ปีการศึกษา 2535 สำเร็จการศึกษาเนติบัณฑิตไทย รุ่นที่ 48 จากสถาบันอบรมเนติบัณฑิตยสภา ปี พ.ศ. 2538 ปัจจุบันรับราชการเป็นผู้พิพากษาประจำสำนักงานศาลยุติธรรม ช่วยราชการตำแหน่งผู้พิพากษาศาลจังหวัดนครราชสีมา.