

## ACT 120

A Bill for an Act Relating to Telecommunications Fraud.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to amend the offense of telecommunications service fraud to include the unlawful selling or using of a telephone access device.

SECTION 2. Section 708-8202, Hawaii Revised Statutes, is amended to read as follows:

**“§708-8202 Telecommunication service fraud in the first degree.** (1) A person commits the offense of telecommunication service fraud in the first degree if the person [knowingly]:

- (a) [Distributes] Knowingly distributes written instructions or plans to make or assemble a telecommunication service device and knows that the written plans or instructions are intended to be used to make or assemble a device to obtain telecommunication service without payment of applicable charges; [or]
- (b) [Distributes] Knowingly distributes a telecommunication service device and knows that the device is intended to be used to obtain telecommunication service without payment of applicable charges[.];
- or
- (c) With the intent to defraud another of the lawful charge for any telephone service that is provided for a charge or compensation:
  - (i) Sells, offers for sale, or otherwise makes available, without consent of the holder of the access device, an existing, canceled, or revoked access device;
  - (ii) Uses, without consent of the holder of the access device, an existing, canceled, or revoked access device resulting in obtaining services, the value of which exceeds \$300 in any six-month period; or
  - (iii) Engages in a scheme constituting a systematic and continuing course of conduct to obtain an existing, canceled, or revoked access device from another by false or fraudulent pretenses, representations, or promises and does obtain an existing, canceled, or revoked access device from the other person.

(2) For purposes of this section:

“Access device” means any telephone calling card number, credit card number, account number, or personal identification number that can be used to obtain telephone service.

“Holder of access device” means a person or organization to which an access device has been issued by a telephone service company.

[(2)] (3) Telecommunication service fraud in the first degree is a class C felony.”

SECTION 3. Section 708-8203, Hawaii Revised Statutes, is amended to read as follows:

**“[[§708-8203]] Telecommunication service fraud in the second degree.**

(1) A person commits the offense of telecommunication service fraud in the second degree if the person [knowingly]:

**ACT 120**

- (a) [Possesses] Knowingly possesses a telecommunication service device with the intent to obtain telecommunication service without payment of applicable charges; [or]
- (b) [Possesses] Knowingly possesses written instructions or plans to make or assemble a telecommunication service device with the intent to use the written plans or instructions to make or assemble a device to obtain telecommunication service without payment of applicable charges[.]; or
- (c) With the intent to defraud another of the lawful charge for any telephone service, that is provided for a charge or compensation, and without consent of the holder of the access device, uses an existing, canceled, or revoked access device resulting in obtaining services, the value of which does not exceed \$300 in any six-month period.

(2) For purposes of this section:

“Access device” means any telephone calling card number, credit card number, account number, or personal identification number that can be used to obtain telephone service.

“Holder of access device” means a person or organization to which an access device has been issued by a telephone service company.

[(2)] (3) Telecommunication service fraud in the second degree is a misdemeanor.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 20, 1993.)