

# SENATE NO. 180

## **AN ACT** RELATIVE TO THE CRIME OF IDENTITY FRAUD

*Be it enacted by the Senate and House of Representatives in General Court assembled,  
And by the authority of the same, as follows:*

1 SECTION 1. Section 37E of chapter 266 of the General Laws, as appearing in the 2004 Official  
2 Edition, is hereby amended in subsection (a), by inserting before the definition of “Harass” the  
3 following definition:- “Fictitious identification document”, a forged, counterfeited, falsely  
4 made, fraudulently procured or falsely obtained: (a) charge card, credit card, bank card,  
5 financial instrument or identification document, that is issued, or in a materially similar respect,  
6 has the physical appearance or operating features of being issued, by a bank or financial  
7 institution; or (b) license, permit, passport, birth certificate, social security card or other  
8 identification document, that is issued, or in a materially similar respect, has the physical  
9 appearance or operating features of being issued, by any governmental or quasi-governmental  
10 entity whether domestic, foreign or international.

11 SECTION 2. Said section 37E of chapter 266 of the General Laws, as so appearing, is hereby  
12 further amended in subsection (a) within the definition of “Personal identifying information”

13 by: (i) striking the words “an individual” and inserting in place thereof, the words “a person”  
14 and (ii) inserting after the words “password identification”, as appearing at the end of the  
15 subparagraph, the following words: “or tax identification number, or other bank or financial  
16 institution issued financial account number or distinctive password identification code”.

17 SECTION 3. Said section 37E of chapter 266 of the General Laws, as so appearing, is hereby  
18 further amended in subsection (a), by inserting after the definition of  
19 “Personal identifying information” the following definition:- “Person” includes an individual  
20 whether living or deceased; association, organization, trust, corporation, other business entity,  
21 or a lawfully authorized agent or representative thereof.

22 SECTION 4. Section 37E of chapter 266 of the General Laws, as so appearing, is hereby further  
23 amended as follows by inserting after subsection (c), the following subsections:-

24 (d) Whoever attempts to obtain or obtains from another person the personal identifying  
25 information of such person, by:

26 (i) false pretence; or

27 (ii) trick, scheme or artifice to intentionally deceive or mislead another  
28 person in a material manner; or

29 (iii) willfully making a materially false, fictitious or deceptive statement  
30 or communication whether by oral; written; electronic mail; Internet;  
31 electronic signal, code or transmission; television radio or  
32 wireless broadcast; or any other means; and

33 with the intent to:

34 (1) pose as such person in order to defraud any person, by fraudulently  
35 obtaining money, credit, goods, services or anything of value; or

36 (2) use the personal identifying information of such person to obtain, forge,  
37 or cause to be made, a fictitious identification document; or

38 (3) transfer or distribute the personal identifying information of such  
39 person to any other person, and with the knowledge or intent that the  
40 personal identifying information will be used by such other person to  
41 engage in an activity described in this subparagraph or subparagraphs  
42 (d)(1) or (d)(2),

43 shall be guilty of the crime of identity fraud and shall be punished by a fine of not  
44 more than \$5,000, or by imprisonment in the state prison for not more than 5 years,  
45 or in the house of correction for not more than 2 ½ years, or by both such fine and  
46 imprisonment.

47 A person who knowingly aids or abets another person to commit or attempt to  
48 commit the offense of identity fraud prohibited by this subsection shall be guilty of,  
49 and shall be subject to the punishment for, identity fraud provided under this  
50 subsection.

51 (e) Whoever solicits, buys or otherwise intentionally obtains from any person a  
52 fictitious identification document or the personal identifying information of  
53 another person, and with the knowledge that such fictitious identification  
54 document or personal identifying information was obtained in violation of  
55 this section, and with the intent to use such fictitious identification document  
56 or personal identifying information to:

57 (i) defraud any person, by fraudulently obtaining money, credit, goods,  
58 services or anything of value; or

- 59 (ii) obtain, forge, or cause to be made, a fictitious identification document; or  
60 (iii) transfer or distribute such fictitious identification document or the  
61 personal identifying information to any other person, and with the  
62 knowledge or intent that such fictitious identification document or the  
63 personal identifying information will be used by such other person to  
64 engage in an activity described in this subparagraph or subparagraphs  
65 (e)(i) or (e)(ii),

66 shall be guilty of the crime of identity fraud and shall be punished by a fine of  
67 not more than \$5,000, or by imprisonment in the state prison for not more than 5  
68 years, or in the house of correction for not more than 2 ½ years, or by both such fine  
69 and imprisonment.

70 A person who knowingly aids or abets another person to commit or attempt to  
71 commit the offense of identity fraud prohibited by this subsection shall be guilty of,  
72 and shall be subject to the punishment for, identity fraud provided under this  
73 subsection.

74 (f) Whoever knowingly offers to sell, sells or transfers for consideration a fictitious  
75 identification document to another person, and with the knowledge or having reason  
76 to know or with the intent that such fictitious identification document will be used to  
77 fraudulently or unlawfully obtain money, credit, goods, services or anything of value  
78 shall be guilty of the crime of identity fraud and shall be punished by a fine of not  
79 more than \$5,000, or by imprisonment in the state prison for not more than 5 years,  
80 or in the house of correction for not more than 2 ½ years, or by both such fine and  
81 imprisonment.

82 A person who knowingly aids or abets another person to commit or attempt to  
83 commit the offense of identity fraud prohibited by this subsection shall be guilty of,  
84 and shall be subject to the punishment for, identity fraud provided under this  
85 subsection.

86 (g) A prosecution under this section may be commenced and disposed of, in either the  
87 Superior Court or District Court. A prosecution in the Superior Court may be  
88 commenced in the county in which any conduct in violation of this section occurred  
89 in the commonwealth, or in the county where the victim or defendant resides, or has  
90 a principal place of business within the commonwealth. A prosecution commenced  
91 in the District Court may be commenced in the judicial district in which any conduct  
92 in violation of this section occurred within the commonwealth, or in the judicial  
93 district where the victim or defendant resides or has a principal place of business  
94 within the commonwealth.

95 SECTION 5. Said section 37E of chapter 266 of the General Laws, as so appearing, is hereby  
96 further amended by striking the current subsection heading “(d)” and inserting a new subsection  
97 heading “(h)”.

98 SECTION 6. Said section 37E of chapter 266 of the General Laws, as so appearing, is hereby  
99 further amended by striking the current subsection heading “(e)” and inserting a new subsection  
100 heading “(i)”.

101 SECTION 7. Said section 37E of chapter 266 of the General Laws, as so appearing, is hereby  
102 further amended by inserting after current subsection (e), which heading is to be amended to  
103 subsection “(i)” by Section 6, the following subsection:-

104 (j) A law enforcement officer when acting within the scope of the officer’s

105 lawful authority shall not be subject to the prohibitions of subsections (b),  
106 (c), (d), (e) or (f).