CHAPTER 37

FRAUD

§901. Deceptive business practices

1. A person is guilty of deceptive business practices if, in the course of engaging in a business, occupation or profession, he intentionally:

A. Uses or possesses with the intent to use, a false weight or measure, or any other device which is adjusted or calibrated to falsely determine or measure any quality or quantity; [PL 1975, c. 499, §1 (NEW).]

B. Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service; [PL 1975, c. 499, §1 (NEW).]

C. Takes more than the represented quantity of any commodity or service when as buyer he furnished the weight or measure; [PL 1975, c. 499, §1 (NEW).]

D. Sells, offers or exposes for sale any commodity which is adulterated or mislabelled; [PL 1975, c. 499, §1 (NEW).]

E. [PL 1975, c. 740, §91 (RP).]

F. Sells, offers or exposes for sale a motor vehicle on which the manufacturer's serial number has in fact been altered, removed or obscured; [PL 1975, c. 499, §1 (NEW).]

G. Makes or causes to be made a false statement of material fact in any advertisement addressed to the public or to a substantial number of persons, in connection with the promotion of his business, occupation or profession or to increase the consumption of specified property or service; [PL 1975, c. 499, §1 (NEW).]

H. Offers property or service, in any manner including advertising or other means of communication, as part of a scheme or plan with the intent not to sell or provide the advertised property or services

(1) at all;

(2) at the price or of the quality offered;

(3) in a quantity sufficient to meet the reasonably expected public demand unless the advertisement or communication states the approximate quantity available; or [PL 1975, c. 499, §1 (NEW).]

I. Conducts, sponsors, organizes or promotes a publicly exhibited sports contest with the knowledge that he or another person has tampered with any person, animal or thing that is part of the contest, with the intent to prevent the contest from being conducted in accordance with the rules and usages purporting to govern it, or with the knowledge that any sports official or sports participant has accepted or agreed to accept any benefit from another person upon an agreement or understanding that he will thereby be influenced not to give his best efforts or that he will perform his duties improperly. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. It is a defense to a prosecution under subsection 1, paragraphs G and H, that a television or radio broadcasting station, or a publisher or printer of a newspaper, magazine or other form of printed material, which broadcasts, publishes or prints a false, misleading advertisement did so without knowledge of the advertiser's intent.

[PL 1975, c. 499, §1 (NEW).]

3. As used in this section:

A. "Adulterated" means varying from the standard of composition or quality prescribed for the substance by statute or by lawfully promulgated administrative regulation, or if none, as set by established commercial usage; [PL 1975, c. 499, §1 (NEW).]

B. "Mislabeled" means having a label or trademark varying from the standard of truth and disclosure in labeling prescribed by statute or lawfully promulgated administrative regulation, or if none, as set by established commercial usage. "Mislabeled" includes but is not limited to counterfeiting or the unauthorized reproducing of a trademark. [PL 1999, c. 767, §1 (AMD).]

C. [PL 1975, c. 740, §92 (RP).]
[PL 1999, c. 767, §1 (AMD).]

3-A. A commodity or item bearing marks in violation of this section or personal property, including, but not limited to, tools, machines, equipment, instrumentalities or vehicles of any kind, employed or used in connection with the violation is contraband and may be seized by a law enforcement officer. A person convicted of a violation of this section forfeits to the State all rights, privileges, interests and claims to property seized under this subsection.
[PL 1999, c. 767, §2 (NEW).]

4. Deceptive business practices is a Class D crime.
[PL 1977, c. 162 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§91,92 (AMD). PL 1977, c. 162 (AMD). PL 1999, c. 767, §§1,2 (AMD).

§901-A. Deceptive insurance practices

1. A person is guilty of deceptive insurance practices if in the course of engaging in the business of insurance that person intentionally makes a false statement with respect to a material fact concerning, or intentionally materially alters, any of the following:

A. A document filed with the Superintendent of Insurance or the insurance regulatory official or agency of another jurisdiction with respect to:

(1) The financial condition of an insurer;

(2) The formation, acquisition, merger, consolidation, dissolution or withdrawal from one or more lines of insurance in all or part of this State by an insurer;

(3) The issuance of written evidence of insurance; or

(4) The reinstatement of an insurance policy; [PL 1997, c. 779, §2 (NEW).]

B. A document submitted by an insured, claimant or applicant to an insurer, insurance producer or other person; or [PL 1997, c. 779, §2 (NEW).]

C. A document or report filed with a law enforcement agency. [PL 1997, c. 779, §2 (NEW).]
[PL 1997, c. 779, §2 (NEW).]

2. A person is guilty of deceptive insurance practices if in the course of engaging in the business of insurance that person intentionally does any of the following:

A. Transacts the business of insurance in this State without proper licensure, certification or authorization; [PL 1997, c. 779, §2 (NEW).]

B. Destroys, conceals, removes or otherwise impairs the verity or availability of any records of an insurer with the intent to deceive; or [PL 1997, c. 779, §2 (NEW).]

C. Solicits or accepts new or renewal insurance risks on behalf of an insurer or the person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction. [PL 1997, c. 779, §2 (NEW).]
[PL 1997, c. 779, §2 (NEW).]

3. Deceptive insurance practices is a Class D crime.
[PL 1997, c. 779, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 779, §2 (NEW).

§902. Defrauding a creditor

1. A person is guilty of defrauding a creditor if:

A. The person destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest, as defined in Title 11, section 1-1201, subsection (35), with the intent to hinder enforcement of that interest; or [PL 2009, c. 325, Pt. B, §26 (AMD); PL 2009, c. 325, Pt. B, §27 (AFF).]

B. Knowing that proceedings have been or are about to be instituted for the appointment of an administrator, he

(1) destroys, removes, conceals, encumbers, transfers or otherwise deals with any property with a purpose to defeat or obstruct the claim of any creditor; or

(2) presents in writing to any creditor or to an administrator, any false statement relating to the debtor's estate, knowing that a material part of such statement is false. [PL 1979, c. 512, §29 (AMD).]
[PL 2009, c. 325, Pt. B, §26 (AMD); PL 2009, c. 325, Pt. B, §27 (AFF).]

2. As used in this section, "administrator" means an assignee for the benefit of creditors, a receiver, or trustee in bankruptcy or any other person entitled to administer property for the benefit of creditors.
[PL 1979, c. 512, §30 (RPR).]

3. Defrauding a creditor is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 512, §§29,30 (AMD). PL 2009, c. 325, Pt. B, §26 (AMD). PL 2009, c. 325, Pt. B, §27 (AFF).

§903. Misuse of entrusted property

1. A person is guilty of misuse of entrusted property if that person deals with property that has been entrusted to that person as a fiduciary, or property of the government or of a financial institution, in a manner that that person knows is a violation of that person's duty and that involves a substantial risk of loss to the owner or to a person for whose benefit the property was entrusted.
[PL 2013, c. 414, §5 (AMD).]

2. As used in this section "fiduciary" includes any person carrying on fiduciary functions on behalf of an organization that is a fiduciary.
[PL 2013, c. 414, §5 (AMD).]

3. Except as provided in subsection 4, misuse of entrusted property is a Class D crime.
[PL 2013, c. 414, §5 (AMD).]

4. If a misuse of entrusted property results in the loss of a vulnerable person's property or the loss of property entrusted to a person for the benefit of a vulnerable person and, at the time of the offense, the owner or the beneficiary of the property is a vulnerable person:

A. If the value of the property is more than $1,000 but not more than $10,000, the misuse of entrusted property is a Class C crime; and [PL 2013, c. 414, §5 (NEW).]

B. If the value of the property is more than $10,000, the misuse of entrusted property is a Class B crime. [PL 2013, c. 414, §5 (NEW).]

As used in this subsection, "vulnerable person" means an incapacitated adult as defined in Title 22, section 3472, subsection 10 or a dependent adult as defined in Title 22, section 3472, subsection 6. [PL 2013, c. 414, §5 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2013, c. 414, §5 (AMD).

§904. Private bribery

1. A person is guilty of private bribery if:

A. He promises, offers or gives any pecuniary benefits to

(1) an employee or agent with the intention to influence his conduct adversely to the interest of the employer or principal of the agent or employee;

(2) a hiring agent or an official or employee in charge of employment upon agreement or understanding that a particular person, including the actor, shall be hired, retained in employment or discharged or suspended from employment;

(3) a fiduciary with the intent to influence him to act contrary to his fiduciary duty;

(4) a sports participant with the intent to influence him not to give his best efforts in a sports contest;

(5) a sports official with the intent to influence him to perform his duties improperly;

(6) a person in a position of trust and confidence in his relationship to a 3rd person, with the intention that the trust or confidence will be used to influence the 3rd person to become a customer of the actor, or as compensation for the past use of such influence; or [PL 1975, c. 499, §1 (NEW).]

B. He knowingly solicits, accepts or agrees to accept any benefit, the giving of which would be criminal under subsection 1, paragraph A. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. Private bribery is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§905. Misuse of credit identification

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 512, §31 (AMD). PL 1999, c. 190, §2 (RP).

§905-A. Misuse of identification

1. A person is guilty of misuse of identification if, in order to obtain confidential information, property or services, the person intentionally or knowingly:

A. Presents or uses a credit or debit card that is stolen, forged, canceled or obtained as a result of fraud or deception; [PL 1999, c. 190, §3 (NEW).]

B. Presents or uses an account, credit or billing number that that person is not authorized to use or that was obtained as a result of fraud or deception; or [PL 1999, c. 190, §3 (NEW).]

C. Presents or uses a form of legal identification that that person is not authorized to use. [PL 1999, c. 190, §3 (NEW).]

[PL 1999, c. 190, §3 (NEW).]

2. It is an affirmative defense to prosecution under this section that the person believed in good faith that the person was authorized to present or use the card, number or legal identification.

[PL 1999, c. 190, §3 (NEW).]

3. Proof of actual or constructive notice of cancellation gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person who presented the canceled credit or debit card knew it had been canceled.

[PL 2001, c. 383, §107 (AMD); PL 2001, c. 383, §156 (AFF).]

4. As used in this section, "legal identification" includes a social security card, social security number, birth certificate, driver's license, government-issued identification card, oral statement of full name and date of birth or any other means of identifying a person that is generally accepted as accurate and reliable.

[PL 1999, c. 190, §3 (NEW).]

5. Misuse of identification is a Class D crime.

[PL 1999, c. 190, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 190, §3 (NEW). PL 2001, c. 383, §107 (AMD). PL 2001, c. 383, §156 (AFF).

§905-B. Misuse of scanning device or reencoder

1. A person is guilty of misuse of a scanning device or a reencoder if the person intentionally or knowingly uses a scanning device or a reencoder without the permission of the authorized payment card user whose card information is scanned or reencoded and with the intent to defraud or deceive the authorized payment card user, the issuer of the authorized payment card user's payment card or another person.

[PL 2005, c. 72, §1 (NEW).]

2. As used in this section, the following terms have the following meanings.

A. "Authorized payment card user" means a person with the authority or permission to use a payment card. [PL 2005, c. 72, §1 (NEW).]

B. "Payment card" means a credit card, charge card, debit card, hotel key card or stored value card or any other card that is issued to an authorized payment card user that allows the user to obtain, purchase or receive goods, services, money or anything else of value. [PL 2005, c. 72, §1 (NEW).]

C. "Reencoder" means an electronic device that places encoded information from the computer chip or magnetic strip or stripe of a payment card onto the computer chip or magnetic strip or stripe of another payment card or any electronic medium that allows an authorized transaction to occur. [PL 2005, c. 72, §1 (NEW).]

D. "Scanning device" means a scanner, reader or any other electronic device that is used to access, read, scan, obtain, memorize or store, temporarily or permanently, information encoded on the computer chip or magnetic strip or stripe of a payment card. [PL 2005, c. 72, §1 (NEW).]

[PL 2005, c. 72, §1 (NEW).]

3. Misuse of a scanning device or a reencoder is a Class D crime.

[PL 2005, c. 72, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 72, §1 (NEW).

§905-C. Misuse of public benefits instrument

1. A person is guilty of misuse of a public benefits instrument if the person knowingly:

A. Transfers a public benefits instrument without authorization of the agency issuing the instrument; or [PL 2011, c. 687, §1 (NEW).]

B. Obtains or possesses a public benefits instrument that was obtained without authorization of the agency issuing the instrument. [PL 2011, c. 687, §1 (NEW).]

[PL 2011, c. 687, §1 (NEW).]

2. As used in this section, "public benefits instrument" means electronic benefits transfer cards, coupons, vouchers and any other means for distributing benefits from the following programs:

A. The municipal general assistance program under Title 22, chapter 1161; [PL 2011, c. 687, §1 (NEW).]

B. The TANF program under Title 22, chapter 1053-B; [PL 2011, c. 687, §1 (NEW).]

C. The statewide Supplemental Nutrition Assistance Program under Title 22, section 3104; [PL 2021, c. 398, Pt. OO, §2 (AMD).]

D. The child care subsidies under Title 22, chapter 1052-A; or [PL 2011, c. 687, §1 (NEW).]

E. The Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966. [PL 2011, c. 687, §1 (NEW).]

[PL 2021, c. 398, Pt. OO, §2 (AMD).]

3. Misuse of a public benefits instrument is a Class D crime.

[PL 2011, c. 687, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 687, §1 (NEW). PL 2021, c. 398, Pt. OO, §2 (AMD).

§906. Use of slugs

1. A person is guilty of use of slugs if:

A. With intent to defraud, he inserts or deposits a slug in a coin box, turnstile, vending machine or other mechanical or electronic device or receptacle; or [PL 1975, c. 499, §1 (NEW).]

B. He makes, possesses or disposes of a slug with intent to enable a person to insert or deposit it in a coin box, turnstile, vending machine or other mechanical or electronic device or receptacle. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. As used in this section, "slug" means an object or article which, by virtue of its size, shape or other quality, is capable of being inserted or deposited as an improper substitute for a genuine coin, bill, pass, key or token in a coin box, turnstile, vending machine or other mechanical or electronic device or receptacle which is designed automatically to offer, provide, assist in providing or permit the acquisition of some property or services in return for the insertion or deposit of a genuine coin, bill, pass, key or token.

[PL 1975, c. 499, §1 (NEW).]

3. Use of slugs is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§907. Possession or transfer of theft devices

1. A person is guilty of possession or transfer of theft devices if:

A. The person possesses or makes any device, instrument, apparatus or other article that is designed or primarily useful for advancing or facilitating the commission of theft, with the intent to use such device, instrument, apparatus or other article to commit any such criminal offense. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §108 (AMD); PL 2001, c. 383, §156 (AFF).]

B. The person transfers or possesses with the intent to transfer any device described in paragraph A that the person knows is designed or primarily useful for the commission of theft. Violation of this paragraph is a Class D crime. [PL 2001, c. 383, §108 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §108 (AMD); PL 2001, c. 383, §156 (AFF).]

2.

[PL 2001, c. 383, §109 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1979, c. 512, §32 (NEW). PL 1991, c. 548, §A9 (AMD). PL 1997, c. 372, §2 (AMD). PL 2001, c. 383, §§108,109 (AMD). PL 2001, c. 383, §156 (AFF).

§908. Home construction or repair fraud

1. A home construction or repair seller is guilty of home construction or repair fraud if the seller knowingly enters into an agreement or contract, written or oral, with any person for home construction or repair services and the seller, at the time of entering into that agreement or contract:

A. Intentionally misrepresents a material fact relating to the terms of the agreement or contract or misrepresents a preexisting or existing condition of any portion of the property that is the subject of the home construction or repair services. Violation of this paragraph is a Class D crime; [PL 2017, c. 166, §1 (AMD).]

B. Intentionally creates or reinforces an impression relating to the terms of the agreement or contract that is false and that the seller does not believe to be true or fails to correct such an impression that the seller had previously created or reinforced. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §110 (AMD); PL 2001, c. 383, §156 (AFF).]

C. Intentionally promises performance under the terms of the agreement or contract that the seller does not intend to perform or that the seller knows will not be performed. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §110 (AMD); PL 2001, c. 383, §156 (AFF).]

D. Intentionally uses or employs deception, false pretense or false promise in securing the agreement or contract. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §110 (AMD); PL 2001, c. 383, §156 (AFF).]

E. Knows that the property that is the subject of the home construction or repair services was previously damaged or destroyed by the seller with the intent to obtain the agreement or contract. Violation of this paragraph is a Class D crime; [PL 2017, c. 166, §1 (AMD).]

F. Violates paragraph A and the person has 2 or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime; [PL 2007, c. 476, §34 (AMD).]

G. Violates paragraph B and the person has 2 or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime; [PL 2007, c. 476, §35 (AMD).]

H. Violates paragraph C and the person has 2 or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime; [PL 2007, c. 476, §36 (AMD).]

I. Violates paragraph D and the person has 2 or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime; or [PL 2007, c. 476, §37 (AMD).]

J. Violates paragraph E and the person has 2 or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime. [PL 2007, c. 476, §38 (AMD).]

[PL 2017, c. 166, §1 (AMD).]

2.

[PL 2007, c. 475, §12 (RP).]

3. As used in this section, unless otherwise indicated, the following terms have the following meanings.

A. "Home construction or repair services" means building or constructing a residence and fixing, replacing, altering, converting, modernizing, improving or making an addition to real property primarily designed or used as a residence. "Home construction or repair services" includes not only structural work but also the construction, installation, replacement, improvement and cleaning of driveways, swimming pools, porches, kitchens, chimneys, chimney liners, garages, fences, fall-out shelters, central air conditioning, central heating, boilers, furnaces, hot water heaters, electric wiring, sewers, carpeting, plumbing fixtures, storm doors, storm windows, siding or awnings and other improvements to structures within the residence or upon the land adjacent to the residence, including tree trimming. [PL 2017, c. 166, §1 (AMD).]

B. "Home construction or repair seller" or "seller" means a person, partnership, corporation, business, trust or other legal entity that sells or provides home construction or repair services. [PL 2017, c. 166, §1 (AMD).]

C. "Residence" means a single-family or multifamily dwelling, including a single-family home, apartment building, condominium, duplex or townhouse that is used or intended to be used by its occupants as a dwelling place. [PL 1995, c. 681, §1 (NEW).]

[PL 2017, c. 166, §1 (AMD).]

4.

[PL 2001, c. 383, §111 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1995, c. 681, §1 (NEW). PL 2001, c. 383, §§110,111 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 475, §12 (AMD). PL 2007, c. 476, §§34-38 (AMD). PL 2017, c. 166, §1 (AMD).

§909. Possession or transfer of automated sales suppression device

1. A person is guilty of possession or transfer of an automated sales suppression device if:

A. The person knowingly possesses, purchases or owns any automated sales suppression device or phantom-ware. Violation of this paragraph is a Class D crime; or [PL 2011, c. 526, §1 (NEW).]

B. The person knowingly manufactures, sells, installs or transfers any automated sales suppression device or phantom-ware or possesses, purchases or owns with the intent to sell, install or transfer any automated sales suppression device or phantom-ware. Violation of this paragraph is a Class C crime. [PL 2011, c. 526, §1 (NEW).]

[PL 2011, c. 526, §1 (NEW).]

2. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Automated sales suppression device" means a computer software program, which may be stored on magnetic or optical media, accessed through the Internet or accessed through any other means, that is designed or used to falsify the electronic records of an electronic cash register or other point-of-sale system, including, but not limited to, transaction data and transaction reports. [PL 2011, c. 526, §1 (NEW).]

B. "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling or processing retail sales transaction data. [PL 2011, c. 526, §1 (NEW).]

C. "Phantom-ware" means a hidden, preinstalled or installed programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual 2nd cash register or to eliminate or manipulate transaction records, which may or may not be preserved in digital formats, can represent either the true or the manipulated records of transactions in the electronic cash register and is intended to falsify the electronic records of an electronic cash register or other point-of-sale system. [PL 2011, c. 526, §1 (NEW).]

D. "Transaction data" includes a description of items purchased by a customer; the price for each item; a taxability determination for each item; a segregated tax amount for each taxed item; the amount of cash or credit tendered; the net amount returned to the customer in change; the date and time of the purchase; the name, address and identification number of the vendor; and the receipt or invoice number of the transaction. [PL 2011, c. 526, §1 (NEW).]

E. "Transaction report" means a report that includes, but is not limited to, sales, taxes collected, methods of payment and voided sales at an electronic cash register that is printed on cash register tape at the end of a day or shift or a report that includes every action at an electronic cash register that is stored electronically. [PL 2011, c. 526, §1 (NEW).]

[PL 2011, c. 526, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 526, §1 (NEW).

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