



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4138

Introduced 9/3/2021, by Rep. Katie Stuart

SYNOPSIS AS INTRODUCED:

720 ILCS 5/17-1

from Ch. 38, par. 17-1

Amends the Criminal Code of 2012. Provides that a person commits a deceptive practice when he or she knowingly makes a false or deceptive statement addressed to the public for the purpose of promoting the sale or lease (rather than only the sale) of property or services. Provides that a violation is a Class A misdemeanor.

LRB102 19629 RLC 28401 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by
5 changing Section 17-1 as follows:

6 (720 ILCS 5/17-1) (from Ch. 38, par. 17-1)
7 Sec. 17-1. Deceptive practices.

8 (A) General deception.

9 A person commits a deceptive practice when, with intent to
10 defraud, the person does any of the following:

11 (1) He or she knowingly causes another, by deception
12 or threat, to execute a document disposing of property or
13 a document by which a pecuniary obligation is incurred.

14 (2) Being an officer, manager or other person
15 participating in the direction of a financial institution,
16 he or she knowingly receives or permits the receipt of a
17 deposit or other investment, knowing that the institution
18 is insolvent.

19 (3) He or she knowingly makes a false or deceptive
20 statement addressed to the public for the purpose of
21 promoting the sale or lease of property or services.

1 (B) Bad checks.

2 A person commits a deceptive practice when:

3 (1) With intent to obtain control over property or to
4 pay for property, labor or services of another, or in
5 satisfaction of an obligation for payment of tax under the
6 Retailers' Occupation Tax Act or any other tax due to the
7 State of Illinois, he or she issues or delivers a check or
8 other order upon a real or fictitious depository for the
9 payment of money, knowing that it will not be paid by the
10 depository. The trier of fact may infer that the defendant
11 knows that the check or other order will not be paid by the
12 depository and that the defendant has acted with intent to
13 defraud when the defendant fails to have sufficient funds
14 or credit with the depository when the check or other
15 order is issued or delivered, or when such check or other
16 order is presented for payment and dishonored on each of 2
17 occasions at least 7 days apart. In this paragraph (B)(1),
18 "property" includes rental property (real or personal).

19 (2) He or she issues or delivers a check or other order
20 upon a real or fictitious depository in an amount
21 exceeding \$150 in payment of an amount owed on any credit
22 transaction for property, labor or services, or in payment
23 of the entire amount owed on any credit transaction for
24 property, labor or services, knowing that it will not be
25 paid by the depository, and thereafter fails to provide
26 funds or credit with the depository in the face amount of

1 the check or order within 7 days of receiving actual
2 notice from the depository or payee of the dishonor of the
3 check or order.

4 (C) Bank-related fraud.

5 (1) False statement.

6 A person commits false statement bank fraud if he or she,
7 with intent to defraud, makes or causes to be made any false
8 statement in writing in order to obtain an account with a bank
9 or other financial institution, or to obtain credit from a
10 bank or other financial institution, or to obtain services
11 from a currency exchange, knowing such writing to be false,
12 and with the intent that it be relied upon.

13 For purposes of this subsection (C), a false statement
14 means any false statement representing identity, address, or
15 employment, or the identity, address, or employment of any
16 person, firm, or corporation.

17 (2) Possession of stolen or fraudulently obtained checks.

18 A person commits possession of stolen or fraudulently
19 obtained checks when he or she possesses, with the intent to
20 obtain access to funds of another person held in a real or
21 fictitious deposit account at a financial institution, makes a
22 false statement or a misrepresentation to the financial
23 institution, or possesses, transfers, negotiates, or presents
24 for payment a check, draft, or other item purported to direct
25 the financial institution to withdraw or pay funds out of the

1 account holder's deposit account with knowledge that such
2 possession, transfer, negotiation, or presentment is not
3 authorized by the account holder or the issuing financial
4 institution. A person shall be deemed to have been authorized
5 to possess, transfer, negotiate, or present for payment such
6 item if the person was otherwise entitled by law to withdraw or
7 recover funds from the account in question and followed the
8 requisite procedures under the law. If the account holder,
9 upon discovery of the withdrawal or payment, claims that the
10 withdrawal or payment was not authorized, the financial
11 institution may require the account holder to submit an
12 affidavit to that effect on a form satisfactory to the
13 financial institution before the financial institution may be
14 required to credit the account in an amount equal to the amount
15 or amounts that were withdrawn or paid without authorization.

16 (3) Possession of implements of check fraud.

17 A person commits possession of implements of check fraud
18 when he or she possesses, with the intent to defraud and
19 without the authority of the account holder or financial
20 institution, any check imprinter, signature imprinter, or
21 "certified" stamp.

22 (D) Sentence.

23 (1) The commission of a deceptive practice in
24 violation of this Section, except as otherwise provided by
25 this subsection (D), is a Class A misdemeanor.

1 (2) For purposes of paragraphs (A) (1) and (B) (1):

2 (a) The commission of a deceptive practice in
3 violation of paragraph (A) (1) or (B) (1), when the
4 value of the property so obtained, in a single
5 transaction or in separate transactions within a
6 90-day period, exceeds \$150, is a Class 4 felony. In
7 the case of a prosecution for separate transactions
8 totaling more than \$150 within a 90-day period, those
9 separate transactions shall be alleged in a single
10 charge and prosecuted in a single prosecution.

11 (b) The commission of a deceptive practice in
12 violation of paragraph (B) (1) a second or subsequent
13 time is a Class 4 felony.

14 (3) For purposes of paragraph (C) (2), a person who,
15 within any 12-month period, violates paragraph (C) (2) with
16 respect to 3 or more checks or orders for the payment of
17 money at the same time or consecutively, each the property
18 of a different account holder or financial institution, is
19 guilty of a Class 4 felony.

20 (4) For purposes of paragraph (C) (3), a person who
21 within any 12-month period violates paragraph (C) (3) as to
22 possession of 3 or more such devices at the same time or
23 consecutively is guilty of a Class 4 felony.

24 (E) Civil liability. A person who issues a check or order
25 to a payee in violation of paragraph (B) (1) and who fails to

1 pay the amount of the check or order to the payee within 30
2 days following either delivery and acceptance by the addressee
3 of a written demand both by certified mail and by first class
4 mail to the person's last known address or attempted delivery
5 of a written demand sent both by certified mail and by first
6 class mail to the person's last known address and the demand by
7 certified mail is returned to the sender with a notation that
8 delivery was refused or unclaimed shall be liable to the payee
9 or a person subrogated to the rights of the payee for, in
10 addition to the amount owing upon such check or order, damages
11 of treble the amount so owing, but in no case less than \$100
12 nor more than \$1,500, plus attorney's fees and court costs. An
13 action under this subsection (E) may be brought in small
14 claims court or in any other appropriate court. As part of the
15 written demand required by this subsection (E), the plaintiff
16 shall provide written notice to the defendant of the fact that
17 prior to the hearing of any action under this subsection (E),
18 the defendant may tender to the plaintiff and the plaintiff
19 shall accept, as satisfaction of the claim, an amount of money
20 equal to the sum of the amount of the check and the incurred
21 court costs, including the cost of service of process, and
22 attorney's fees.

23 (Source: P.A. 96-1432, eff. 1-1-11; 96-1551, eff. 7-1-11.)