

VT Electronic Crime Statutes

<http://198.187.128.12/vermont/lpext.dll?f=templates&fn=fs-main.htm&2.0>

§ 2021. Telecommunications fraud and facilitation of telecommunications fraud.

(a) Definitions. As used in this section:

(1) "Telecommunications device" means any type of instrument, device, machine, or equipment which is capable of transmitting or receiving interactive two-way electromagnetic communication, including voice, image, data, and information, or any part of such instrument, device, machine, or equipment, or any computer circuit, computer chip, electronic mechanism, or other component which is capable of facilitating the transmission or reception of any interactive two-way electromagnetic communication.

(2) "Telecommunications service" shall be the service provided by a telecommunications service provider as defined in subdivision (3) of this section.

(3) "Telecommunications service provider" means a person providing telecommunications service, companies operating a cable television system as defined in 30 V.S.A. § 501(2), and companies operating a satellite system.

(4) "Unlawful telecommunications device" means a telecommunications device, identification code, or computer code that, alone or in conjunction with any other item, is used or is intended to be used to commit telecommunications fraud or facilitation of telecommunications fraud.

(5) "Traffic" means to sell, buy, receive, distribute, exchange, offer, advertise, transfer, or dispose of an unlawful telecommunications device, related equipment, or plans or instructions for manufacturing or using such devices.

(6) "Electronic serial number reader" means a device which is capable of acquiring or facilitating the acquisition of an electronic serial number, mobile identification number, personal identification number, or any code or encoded or encrypted transmission useful in originating, facilitating, or transmitting telecommunications service without the consent of the telecommunications service provider.

(b) Telecommunications fraud. A person with intent to defraud, commits the crime of telecommunications fraud by:

(1) Charging telecommunications service to an existing telephone number, calling or credit card number, account number, or other identifying subscriber number; or

(2) Charging telecommunications service to a false, inactive, counterfeit, or stolen telephone number, calling or credit card number, account number, or other identifying subscriber number; or

(3) Obtaining telecommunications service using a false, altered, or stolen identification; or

(4) Obtaining or attempting to obtain telecommunications service by the use of an unlawful telecommunications device.

(c) Penalties. A person who is convicted of telecommunications fraud shall,

(1) if the benefit has a value of less than \$500.00, be imprisoned not more than two years or fined not more than \$5,000.00, or both; or

(2) if the benefit is \$500.00 or more in value, be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(d) Amounts involved in a violation of subsection (b) of this section under one course of conduct may be aggregated in determining the charge or the penalty for the offense.

(e) A person commits the crime of facilitation of telecommunications fraud who knowingly:

(1) Possesses with intent to defraud, manufactures, or traffics in an unlawful telecommunications device or modifies, programs, or reprograms a telecommunications device designed, adapted, or which can be used:

(A) to commit a theft of telecommunications service; or

(B) to conceal with intent to defraud or to assist another to conceal with intent to defraud from any telecommunications service provider or governmental authority the existence or place of origin or destination of any telecommunications service; or

(2) Manufactures or traffics in:

(A) plans or instructions for manufacturing or using an unlawful telecommunications device, except where the person manufactures or traffics in plans or instructions which are used for bona fide educational purposes exclusively; or

(B) material, data, computer facilities, computer software, computer hardware, reader, or other equipment, knowing that the purchaser or a third person intends to use the material for the manufacture of an unlawful telecommunications device.

(f) Penalties. A person convicted of facilitation of telecommunications fraud shall:

(1) For a first offense, be imprisoned for not more than two years or fined not more than \$5,000.00, or both; or

(2) For a second or subsequent offense, be imprisoned not more than five years or fined not more than \$20,000.00, or both.

(g) Civil action. A person damaged as a result of a violation of this section may bring a civil action against the violator for damages and such other relief as the court deems appropriate.

1961, No. 86, §§ 1, 2; amended 1999, No. 35, § 2.

§ 2581. Definitions.

As used in this subchapter:

(1) "Services" includes labor, professional service, transportation, public services not provided for in 13 V.S.A. § 2021, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, or amusements or recreational facilities, use of vehicles or other movable property.

(2) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location.

(3) "Obtain" means:

(A) in relation to property, to bring about a transfer or purported transfer of a legal interest in the property, whether to the obtainer or another; or

(B) in relation to labor or service, to secure performance thereof.

Added 1967, No. 202, § 1, eff. April 17, 1967; amended 1973, No. 199 (Adj. Sess.), § 1; 1999, No. 35, § 3.

§ 2582. Theft of services.

(a) A person who purposely obtains services which he knows are available only for compensation, by deception or threat, or by false token or other means to avoid payment for the service shall if the services exceed \$500.00 in value be imprisoned for not more

than ten years or fined not more than \$5,000.00 or both. Otherwise, a person who violates a provision of this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00 or both. Where compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels, restaurants and transportation, refusal to pay or absconding without payment or offer to pay gives rise to a rebuttable presumption that the service was obtained by deception as to intention to pay.

(b) A person who, having control over the disposition of services of others, to which he is not entitled, knowingly diverts such services to his own benefit or to the benefit of another not entitled thereto shall if the services exceed \$500.00 in value be imprisoned for not more than ten years or fined not more than \$5,000.00 or both. Otherwise a person who violates a provision of this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00 or both.

Added 1967, No. 202, § 2, eff. April 17, 1967; amended 1973, No. 199 (Adj. Sess.), § 2.

§ 4101. Definitions.

As used in this chapter:

(1) "Access" means to instruct, communicate with, store data in, enter data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.

(2) "Computer" means an electronic device which performs logical, arithmetic, and memory functions by the manipulations of electronic, photonic or magnetic impulses, and includes all input, output, processing, storage, software, or communications facilities which are connected or related to such a device in a system or network, including devices available to the public for limited or designated use or other devices used to access or connect to such a system or network.

(3) "Computer network" means the interconnection of remote user terminals with a computer through communications lines, or a complex consisting of two or more interconnected computers.

(4) "Computer program" means a series of instructions or statements or related data that, in actual or modified form, is capable of causing a computer or a computer system to perform specified functions in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.

(5) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system.

(6) "Computer system" means a set of connected computer equipment, devices and software.

(7) "Data" means any representation of information, knowledge, facts, concepts, or instructions which are being prepared or have been prepared and are intended to be entered, processed, or stored, are being entered, processed, or stored, or have been entered, processed, or stored in a computer, computer system, or computer network.

(8) "Property" includes electronically-produced data, and computer software and programs in either machine or human readable form, and any other tangible or intangible item of value.

(9) "Services" includes computer time, data processing, and storage functions.

Added 1999, No. 35, § 1.

§ 4102. Unauthorized access.

A person who knowingly and intentionally and without lawful authority, accesses any computer, computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network shall be imprisoned not more than six months or fined not more than \$500.00, or both.

Added 1999, No. 35, § 1.

§ 4103. Access to computer for fraudulent purposes.

(a) A person shall not intentionally and without lawful authority access or cause to be accessed any computer, computer system, or computer network for any of the following purposes:

- (1) executing any scheme or artifice to defraud;
- (2) obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises; or
- (3) in connection with any scheme or artifice to defraud, damaging, destroying, altering, deleting, copying, retrieving, interfering with or denial of access to, or removing any program or data contained therein.

(b) Penalties. A person convicted of the crime of access to computer for fraudulent purposes shall be,

- (1) if the value of the matter involved does not exceed \$500.00, imprisoned not more than one year or fined not more than \$500.00, or both;
- (2) if the value of the matter involved does not exceed \$500.00, for a second or subsequent offense, imprisoned not more than two years or fined not more than \$1,000.00, or both; or
- (3) if the value of the matter involved exceeds \$500.00, imprisoned not more than ten years or fined not more than \$10,000.00, or both.

Added 1999, No. 35, § 1.

§ 4104. Alteration, damage, or interference.

(a) A person shall not intentionally and without lawful authority, alter, damage, or interfere with the operation of any computer, computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

(b) Penalties. A person convicted of violating this section shall be,

- (1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than \$500.00, or both;
- (2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than \$1,000.00, or both; or
- (3) if the damage or loss exceeds \$500.00, imprisoned not more than ten years or fined not more than \$10,000.00, or both.

Added 1999, No. 35, § 1

§ 4105. Theft or destruction.

(a) A person shall not intentionally and without claim of right deprive the owner of possession, take, transfer, copy, conceal, or retain possession of, or intentionally and without lawful authority, destroy any computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

Copying a commercially available computer program or computer software is not a crime under this section, provided that the computer program and computer software has a retail value of \$500.00 or less and is not copied for resale.

(b) Penalties. A person convicted of violating this section shall be,

(1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than \$500.00, or both;

(2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than \$1,000.00 or both; or

(3) if the damage or loss exceeds \$500.00, imprisoned not more than ten years or fined not more than \$10,000.00, or both.

Added 1999, No. 35, § 1.

§ 4106. Civil liability.

A person damaged as a result of a violation of this chapter may bring a civil action against the violator for damages and such other relief as the court deems appropriate.

Added 1999, No. 35, § 1.

§ 4107. Venue.

For the purposes of venue under this chapter, any violation of this chapter shall be considered to have been committed in the state of Vermont if the state of Vermont is the state from which or to which any use of a computer or computer network was made, whether by wires, electromagnetic waves, microwaves, or any other means of communication.

Added 1999, No. 35, § 1.