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18 USC Sec. 1028

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-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE

PART I - CRIMES

CHAPTER 47 - FRAUD AND FALSE STATEMENTS

-HEAD-

Sec. 1028. Fraud and related activity in connection with
identification documents and information

-STATUTE-

(a) Whoever, in a circumstance described in subsection (c) of
this section -

(1) knowingly and without lawful authority produces an
identification document or a false identification document;

(2) knowingly transfers an identification document or a false
identification document knowing that such document was stolen or
produced without lawful authority;

(3) knowingly possesses with intent to use unlawfully or
transfer unlawfully five or more identification documents (other
than those issued lawfully for the use of the possessor) or false
identification documents;

(4) knowingly possesses an identification document (other than
one issued lawfully for the use of the possessor) or a false
identification document, with the intent such document be used to
defraud the United States;

(5) knowingly produces, transfers, or possesses a

document-making implement with the intent such document-making implement will be used in the production of a false identification document or another document-making implement which will be so used;

(6) knowingly possesses an identification document that is or appears to be an identification document of the United States which is stolen or produced without lawful authority knowing that such document was stolen or produced without such authority; or

(7) knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law;

shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under subsection (a) of this section is -

(1) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than 15 years, or both, if the offense is -

(A) the production or transfer of an identification document or false identification document that is or appears to be -

(i) an identification document issued by or under the authority of the United States; or

(ii) a birth certificate, or a driver's license or personal identification card;

(B) the production or transfer of more than five identification documents or false identification documents;

(C) an offense under paragraph (5) of such subsection; or

(D) an offense under paragraph (7) of such subsection that

involves the transfer or use of 1 or more means of identification if, as a result of the offense, any individual committing the offense obtains anything of value aggregating \$1,000 or more during any 1-year period;

(2) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than three years, or both, if the offense is -

(A) any other production, transfer, or use of a means of identification, an identification document, or a false identification document; or

(B) an offense under paragraph (3) or (7) of such subsection;

(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed -

(A) to facilitate a drug trafficking crime (as defined in section 929(a)(2));

(B) in connection with a crime of violence (as defined in section 924(c)(3)); or

(C) after a prior conviction under this section becomes final;

(4) a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed to facilitate an act of international terrorism (as defined in section 2331(1) of this title);

(5) in the case of any offense under subsection (a), forfeiture to the United States of any personal property used or intended to be used to commit the offense; and

(6) a fine under this title or imprisonment for not more than one year, or both, in any other case.

(c) The circumstance referred to in subsection (a) of this section is that -

(1) the identification document or false identification document is or appears to be issued by or under the authority of the United States or the document-making implement is designed or suited for making such an identification document or false identification document;

(2) the offense is an offense under subsection (a)(4) of this section; or

(3) either -

(A) the production, transfer, possession, or use prohibited by this section is in or affects interstate or foreign commerce; or

(B) the means of identification, identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, possession, or use prohibited by this section.

(d) In this section -

(1) the term "document-making implement" means any implement, impression, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement;

(2) the term "identification document" means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a

particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

(3) the term ''means of identification'' means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any -

(A) name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number;

(B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

(C) unique electronic identification number, address, or routing code; or

(D) telecommunication identifying information or access device (as defined in section 1029(e));

(4) the term ''personal identification card'' means an identification document issued by a State or local government solely for the purpose of identification;

(5) the term ''produce'' includes alter, authenticate, or assemble; and

(6) the term ''State'' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States.

(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United

States, or any activity authorized under chapter 224 of this title.

(f) Attempt and Conspiracy. - Any person who attempts or conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(g) Forfeiture Procedures. - The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).

(h) Rule of Construction. - For purpose of subsection (a)(7), a single identification document or false identification document that contains 1 or more means of identification shall be construed to be 1 means of identification.

-SOURCE-

(Added Pub. L. 97-398, Sec. 2, Dec. 31, 1982, 96 Stat. 2009; amended Pub. L. 99-646, Sec. 44(a), Nov. 10, 1986, 100 Stat. 3601; Pub. L. 100-690, title VII, Sec. 7023, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 101-647, title XII, Sec. 1205(e), Nov. 29, 1990, 104 Stat. 4831; Pub. L. 103-322, title XXXIII, Sec. 330016(1)(K), (M), (O), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104-208, div. C, title II, Sec. 211(a)(1), Sept. 30, 1996, 110 Stat. 3009-569; Pub. L. 104-294, title VI, Sec. 601(a)(3), (p), Oct. 11, 1996, 110 Stat. 3498, 3502; Pub. L. 105-318, Sec. 3(a)-(h)(1), Oct. 30, 1998, 112 Stat. 3007-3009.)

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AMENDMENTS

1998 - Pub. L. 105-318, Sec. 3(h)(1), inserted ''and information'' at end of section catchline.

Subsec. (a). Pub. L. 105-318, Sec. 3(a)(3), struck out ''or attempts to do so,'' before ''shall be punished'' in concluding provisions.

Subsec. (a)(7). Pub. L. 105-318, Sec. 3(a)(1), (2), (4), added par. (7).

Subsec. (b)(1)(D). Pub. L. 105-318, Sec. 3(b)(1), added subpar. (D).

Subsec. (b)(2)(A). Pub. L. 105-318, Sec. 3(b)(2)(A), substituted '', transfer, or use of a means of identification, an identification document, or a'' for ''or transfer of an identification document or''.

Subsec. (b)(2)(B). Pub. L. 105-318, Sec. 3(b)(2)(B), inserted ''or (7)'' after ''(3)''.

Subsec. (b)(3). Pub. L. 105-318, Sec. 3(b)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed to facilitate a drug trafficking crime (as defined in section 929(a)(2) of this title);''.

Subsec. (b)(5), (6). Pub. L. 105-318, Sec. 3(b)(4)-(6), added par. (5) and redesignated former par. (5) as (6).

Subsec. (c)(3). Pub. L. 105-318, Sec. 3(c), added par. (3) and struck out former par. (3) which read as follows: ''the production, transfer, or possession prohibited by this section is in or affects interstate or foreign commerce, or the identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer,

or possession prohibited by this section.'

Subsec. (d). Pub. L. 105-318, Sec. 3(d), amended subsec. (d) generally. Prior to amendment, subsec. (d) consisted of pars. (1) to (5) defining 'identification document', 'produce', 'document-making implement', 'personal identification card', and 'State' as used in this section.

Subsec. (f). Pub. L. 105-318, Sec. 3(e), added subsec. (f).

Subsec. (g). Pub. L. 105-318, Sec. 3(f), added subsec. (g).

Subsec. (h). Pub. L. 105-318, Sec. 3(g), added subsec. (h).

1996 - Subsec. (a)(4), (5). Pub. L. 104-294, Sec. 601(p), struck out 'or' after semicolon in par. (4) and inserted 'or' after semicolon in par. (5).

Subsec. (b). Pub. L. 104-294, Sec. 601(a)(3), substituted 'fine under this title' for 'fine of under this title' wherever appearing.

Subsec. (b)(1). Pub. L. 104-208, Sec. 211(a)(1)(A), in introductory provisions inserted 'except as provided in paragraphs (3) and (4),' after '(1)' and substituted '15 years' for 'five years'.

Subsec. (b)(2). Pub. L. 104-208, Sec. 211(a)(1)(B), inserted 'except as provided in paragraphs (3) and (4),' after '(2)' in introductory provisions and struck out 'and' at end.

Subsec. (b)(3) to (5). Pub. L. 104-208, Sec. 211(a)(1)(C), (D), added pars. (3) and (4) and redesignated former par. (3) as (5).

1994 - Subsec. (b)(1). Pub. L. 103-322, Sec. 330016(1)(O), substituted 'under this title' for 'not more than \$25,000'.

Subsec. (b)(2). Pub. L. 103-322, Sec. 330016(1)(M), substituted 'under this title' for 'not more than \$15,000'.

Subsec. (b)(3). Pub. L. 103-322, Sec. 330016(1)(K), substituted

'under this title' for 'not more than \$5,000'.

1990 - Subsec. (d)(5). Pub. L. 101-647 inserted 'commonwealth,' before 'possession or territory of the United States'.

1988 - Subsec. (a)(6). Pub. L. 100-690 inserted 'knowingly' before 'possesses', 'lawful' before first reference to 'authority', and 'such' before second reference to 'authority'.

1986 - Subsec. (e). Pub. L. 99-646 substituted 'chapter 224 of this title' for 'title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)'.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 211(c) of div. C of Pub. L. 104-208 provided that: 'This section (amending this section and sections 1425 to 1427, 1541 to 1544, and 1546 of this title and enacting provisions set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure) and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act (Sept. 30, 1996).'

CONSTITUTIONAL AUTHORITY

Pub. L. 105-318, Sec. 2, Oct. 30, 1998, 112 Stat. 3007, provided that: 'The constitutional authority upon which this Act (see Short Title of 1998 Amendments note set out under section 1001 of this title) rests is the power of Congress to regulate commerce with foreign nations and among the several States, and the authority to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States or in any department or officer thereof, as set forth in article I, section 8 of the United States

Constitution.'

CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF
IDENTITY THEFT

Pub. L. 105-318, Sec. 5, Oct. 30, 1998, 112 Stat. 3010, provided that:

''(a) In General. - Not later than 1 year after the date of enactment of this Act (Oct. 30, 1998), the Federal Trade Commission shall establish procedures to -

''(1) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that 1 or more of their means of identification (as defined in section 1028 of title 18, United States Code, as amended by this Act) have been assumed, stolen, or otherwise unlawfully acquired in violation of section 1028 of title 18, United States Code, as amended by this Act;

''(2) provide informational materials to individuals described in paragraph (1); and

''(3) refer complaints described in paragraph (1) to appropriate entities, which may include referral to -

''(A) the 3 major national consumer reporting agencies; and

''(B) appropriate law enforcement agencies for potential law enforcement action.

''(b) Authorization of Appropriations. - There are authorized to be appropriated such sums as may be necessary to carry out this section.'

FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION
DOCUMENTS

Pub. L. 98-473, title II, Sec. 609L, Oct. 12, 1984, 98 Stat. 2103, provided that:

''(a) For purposes of section 1028 of title 18, United States Code, to the maximum extent feasible, personal descriptors or identifiers utilized in identification documents, as defined in such section, shall utilize common descriptive terms and formats designed to -

''(1) reduce the redundancy and duplication of identification systems by providing information which can be utilized by the maximum number of authorities, and

''(2) facilitate positive identification of bona fide holders of identification documents.

''(b) The President shall, no later than 3 years after the date of enactment of this Act (Oct. 12, 1984), and after consultation with Federal, State, local, and international issuing authorities, and concerned groups make recommendations (recommendations) to the Congress for the enactment of comprehensive legislation on Federal identification systems. Such legislation shall -

''(1) give due consideration to protecting the privacy of persons who are the subject of any identification system,

''(2) recommend appropriate civil and criminal sanctions for the misuse or unauthorized disclosure of personal identification information, and

''(3) make recommendations providing for the exchange of personal identification information as authorized by Federal or State law or Executive order of the President or the chief executive officer of any of the several States.''

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 922, 981, 982, 2257,

2326, 2516 of this title; title 8 section 1324a; title 22 section
2709; title 31 section 9703; title 42 section 5119a.