

HB 1525

2004

A bill to be entitled

An act relating to fraudulent practices; amending s. 322.051, F.S.; increasing the criminal penalty for persons 21 years of age or older for prohibited acts relating to identification cards; amending s. 322.212, F.S.; increasing the criminal penalty for certain prohibited acts relating to drivers' licenses and identification cards; amending s. 775.0844, F.S.; expanding the definition of aggravated white collar crime relating to fraudulent behavior; providing criminal penalties; providing a minimum mandatory term of imprisonment; amending s. 817.568, F.S.; increasing the criminal penalty for certain acts relating to the fraudulent use of personal identification information; amending s. 921.0022, F.S.; redesignating the offenses provided in ss. 322.212 and 817.568, F.S., in the offense severity ranking chart of the Criminal Punishment Code, to conform; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 322.051, Florida Statutes, is amended to read:

322.051 Identification cards.--

(6) It is unlawful for any person:

(a) To display, cause or permit to be displayed, or have in his or her possession any fictitious, fraudulently altered, or fraudulently obtained identification card.

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29 (b) To lend his or her identification card to any other
 30 person or knowingly permit the use thereof by another.

31 (c) To display or represent any identification card not
 32 issued to him or her as being his or her card.

33 (d) To permit any unlawful use of an identification card
 34 issued to him or her.

35 (e) To do any act forbidden, or fail to perform any act
 36 required, by this section.

37 (f) To photograph, photostat, duplicate, or in any way
 38 reproduce any identification card or facsimile thereof in such a
 39 manner that it could be mistaken for a valid identification
 40 card, or to display or have in his or her possession any such
 41 photograph, photostat, duplicate, reproduction, or facsimile
 42 unless authorized by the provisions of this section.

43
 44 A person 21 years of age or older who violates this subsection
 45 commits a misdemeanor of the first degree, punishable as
 46 provided in s. 775.082 or s. 775.083.

47 Section 2. Subsection (6) of section 322.212, Florida
 48 Statutes, is amended to read:

49 322.212 Unauthorized possession of, and other unlawful
 50 acts in relation to, driver's license or identification card.--

51 (1) It is unlawful for any person to:

52 (a) Knowingly have in his or her possession or to display
 53 any blank, forged, stolen, fictitious, counterfeit, or
 54 unlawfully issued driver's license or identification card or any
 55 instrument in the similitude of a driver's license or
 56 identification card unless possession by such person has been
 57 duly authorized by the department;

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58 (b) Knowingly have in his or her possession any instrument
 59 in the similitude of a driver's license issued by the department
 60 or its duly authorized agents or those of any state or
 61 jurisdiction issuing licenses recognized in this state for the
 62 operation of a motor vehicle;

63 (c) Knowingly have in his or her possession any instrument
 64 in the similitude of an identification card issued by the
 65 department or its duly authorized agents or those of any state
 66 or jurisdiction issuing identification cards recognized in this
 67 state for the purpose of indicating a person's true name and
 68 age; or

69 (d) Knowingly sell, manufacture, or deliver, or knowingly
 70 offer to sell, manufacture, or deliver, a blank, forged, stolen,
 71 fictitious, counterfeit, or unlawfully issued driver's license
 72 or identification card, or an instrument in the similitude of a
 73 driver's license or identification card, unless that person is
 74 authorized to do so by the department. A violation of this
 75 section may be investigated by any law enforcement agency,
 76 including the Division of Alcoholic Beverages and Tobacco.

77
 78 The term "driver's license" includes a driver's license issued
 79 by the department or its agents or a driver's license issued by
 80 any state or jurisdiction that issues licenses recognized in
 81 this state for the operation of a motor vehicle. The term
 82 "identification card" includes any identification card issued by
 83 the department or its agents or any identification card issued
 84 by any state or jurisdiction that issues identification cards
 85 recognized in this state for the purpose of indicating a
 86 person's true name and age. This subsection does not prohibit a

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87 person from possessing or displaying another person's driver's
 88 license or identification card for a lawful purpose.

89 (2) It is unlawful for any person to barter, trade, sell,
 90 or give away any driver's license or identification card or to
 91 perpetrate a conspiracy to barter, trade, sell, or give away any
 92 such license or identification card unless such person has been
 93 duly authorized to issue the license or identification card by
 94 the department as provided in this chapter or in the adopted
 95 rules of the department.

96 (3) It is unlawful for any employee of the department to
 97 allow or permit the issuance of a driver's license or
 98 identification card when he or she knows that the applicant has
 99 not lawfully fulfilled the requirements of this chapter for the
 100 issuance of such license or identification card.

101 (4) It is unlawful for any person to agree to supply or to
 102 aid in supplying any person with a driver's license or
 103 identification card by any means whatsoever not in accordance
 104 with the provisions of this chapter.

105 (5)(a) It is unlawful for any person to use a false or
 106 fictitious name in any application for a driver's license or
 107 identification card or knowingly to make a false statement,
 108 knowingly conceal a material fact, or otherwise commit a fraud
 109 in any such application.

110 (b) It is unlawful for any person to have in his or her
 111 possession a driver's license or identification card upon which
 112 the date of birth has been altered.

113 (6) Except as otherwise provided in this subsection, any
 114 person who violates ~~any of the provisions of~~ this section
 115 commits ~~is guilty of~~ a felony of the second ~~third~~ degree,

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116 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 117 A ~~Any~~ person who violates paragraph (5)(a) by giving a false age
 118 in any application for a driver's license or identification card
 119 or who violates paragraph (5)(b) by possessing a driver's
 120 license, identification card, or any instrument in the
 121 similitude thereof, on which the date of birth has been altered
 122 commits ~~is guilty of~~ a misdemeanor of the second degree,
 123 punishable as provided in s. 775.082 or s. 775.083. A ~~Any~~ person
 124 who violates paragraph (1)(d) commits a felony of the second
 125 ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083,
 126 or s. 775.084.

127 (7) The provisions of this section are in addition and
 128 supplemental to all other provisions of this chapter and of the
 129 laws of this state relating to driver's licenses and
 130 identification cards.

131 Section 3. Section 775.0844, Florida Statutes, is amended
 132 to read:

133 775.0844 White Collar Crime Victim Protection Act.--

134 (1) This section may be cited as the "White Collar Crime
 135 Victim Protection Act."

136 (2) Due to the frequency with which victims, particularly
 137 elderly victims, are deceived and cheated by criminals who
 138 commit nonviolent frauds and swindles, frequently through the
 139 use of the Internet and other electronic technology and
 140 frequently causing the loss of substantial amounts of property,
 141 it is the intent of the Legislature to enhance the sanctions
 142 imposed for nonviolent frauds and swindles, protect the public's
 143 property, and assist in prosecuting white collar criminals.

144 (3) As used in this section, "white collar crime" means:

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- 145 (a) The commission of, or a conspiracy to commit, any
 146 felony offense specified in:
- 147 1. Chapter 560, relating to the Money Transmitters' Code.
 - 148 2. Chapter 812, relating to theft, robbery, and related
 149 crimes.
 - 150 3. Chapter 815, relating to computer-related crimes.
 - 151 4. Chapter 817, relating to fraudulent practices.
 - 152 5. Chapter 825, relating to abuse, neglect, and
 153 exploitation of elderly persons and disabled adults.
 - 154 6. Chapter 831, relating to forgery and counterfeiting.
 - 155 7. Chapter 832, relating to the issuance of worthless
 156 checks and drafts.
 - 157 8. Chapter 838, relating to bribery and misuse of public
 158 office.
 - 159 9. Chapter 839, relating to offenses by public officers
 160 and employees.
 - 161 10. Chapter 895, relating to offenses concerning
 162 racketeering and illegal debts.
 - 163 11. Chapter 896, relating to offenses related to financial
 164 transactions.
- 165 (b) A felony offense that is committed with intent to
 166 defraud or that involves a conspiracy to defraud.
- 167 (c) A felony offense that is committed with intent to
 168 temporarily or permanently deprive a person of his or her
 169 property or that involves a conspiracy to temporarily or
 170 permanently deprive a person of his or her property.
- 171 (d) A felony offense that involves or results in the
 172 commission of fraud or deceit upon a person or that involves a
 173 conspiracy to commit fraud or deceit upon a person.

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174 (4) As used in this section, "aggravated white collar
175 crime" means:

176 (a) Engaging in at least two white collar crimes that have
177 the same or similar intents, results, accomplices, victims, or
178 methods of commission, or that are otherwise interrelated by
179 distinguishing characteristics and are not isolated incidents,
180 provided that at least one of the ~~such~~ crimes occurred after the
181 effective date of this act.

182 (b) Engaging in at least one white collar crime that is a
183 felony offense that involves fraud concerning Medicaid,
184 insurance, or securities.

185 (5) Except as provided in subsection (6), any person who
186 commits an aggravated white collar crime as defined in this
187 section and in so doing either:

188 (a) Victimizes 10 or more elderly persons, as defined in
189 s. 825.101(5);

190 (b) Victimizes 20 or more persons, as defined in s. 1.01;
191 or

192 (c) Victimizes the State of Florida, any state agency, any
193 of the state's political subdivisions, or any agency of the
194 state's political subdivisions,

195
196 and thereby obtains or attempts to obtain \$50,000 or more,
197 commits a felony of the first degree, punishable as provided in
198 s. 775.082, s. 775.083, or s. 775.084.

199 (6) A person who commits an aggravated white collar crime
200 as defined in paragraph (4)(b), and in doing so victimizes 20 or
201 more persons, commits a felony of the first degree, punishable
202 as provided in s. 775.082, s. 775.083, or s. 775.084. Any person

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203 convicted of an aggravated white collar crime under this
 204 subsection shall be sentenced to a minimum mandatory period of
 205 incarceration of 10 years.

206 (7)~~(6)~~ Notwithstanding any other provision of chapter 921
 207 or any other law, an aggravated white collar crime shall be
 208 ranked within the offense severity ranking chart at offense
 209 severity level 9.

210 (8)~~(7)~~ In addition to a sentence otherwise authorized by
 211 law, a person convicted of an aggravated white collar crime may
 212 pay a fine of \$500,000 or double the value of the pecuniary gain
 213 or loss, whichever is greater.

214 (9)~~(8)~~ A person convicted of an aggravated white collar
 215 crime under this section is liable for all court costs and shall
 216 pay restitution to each victim of the crime, regardless of
 217 whether the victim is named in the information or indictment. As
 218 used in this subsection, "victim" means a person directly and
 219 proximately harmed as a result of the commission of the offense
 220 for which restitution may be ordered, including any person
 221 directly harmed by the defendant's criminal conduct in the
 222 course of the commission of the aggravated white collar crime.
 223 The court shall hold a hearing to determine the identity of
 224 qualifying victims and shall order the defendant to pay
 225 restitution based on his or her ability to pay, in accordance
 226 with this section and s. 775.089.

227 (a) The court shall make the payment of restitution a
 228 condition of any probation granted to the defendant by the
 229 court. Notwithstanding any other law, the court may order
 230 continued probation for a defendant convicted under this section

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231 for up to 10 years or until full restitution is made to the
 232 victim, whichever occurs earlier.

233 (b) The court retains jurisdiction to enforce its order to
 234 pay fines or restitution. The court may initiate proceedings
 235 against a defendant for a violation of probation or for contempt
 236 of court if the defendant willfully fails to comply with a
 237 lawful order of the court.

238 Section 4. Paragraph (a) of subsection (2) of section
 239 817.568, Florida Statutes, is amended to read:

240 817.568 Criminal use of personal identification
 241 information.--

242 (2)(a) Any person who willfully and without authorization
 243 fraudulently uses, or possesses with intent to fraudulently use,
 244 personal identification information concerning an individual
 245 without first obtaining that individual's consent, commits the
 246 offense of fraudulent use of personal identification
 247 information, which is a felony of the second ~~third~~ degree,
 248 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

249 Section 5. Paragraphs (a) and (d) of subsection (3) of
 250 section 921.0022, Florida Statutes, are amended to read:

251 921.0022 Criminal Punishment Code; offense severity
 252 ranking chart.--

253 (3) OFFENSE SEVERITY RANKING CHART

Florida	Felony	
Statute	Degree	Description

254 (a) LEVEL 1

255 24.118(3)(a) 3rd Counterfeit or altered state lottery

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ticket.

256

212.054(2)(b) 3rd Discretionary sales surtax;
limitations, administration, and
collection.

257

212.15(2)(b) 3rd Failure to remit sales taxes, amount
greater than \$300 but less than
\$20,000.

258

319.30(5) 3rd Sell, exchange, give away
certificate of title or
identification number plate.

259

319.35(1)(a) 3rd Tamper, adjust, change, etc., an
odometer.

260

320.26(1)(a) 3rd Counterfeit, manufacture, or sell
registration license plates or
validation stickers.

261

~~322.212(1)(a)-
(c)~~ 3rd ~~Possession of forged, stolen,
counterfeit, or unlawfully issued
driver's license; possession of
simulated identification.~~

262

~~322.212(4)~~ 3rd ~~Supply or aid in supplying
unauthorized driver's license or
identification card.~~

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~~322.212(5)(a)~~ ~~3rd~~ ~~False application for driver's
license or identification card.~~

264

370.13(2)(c)1. 3rd Molest any stone crab trap, line, or
buoy which is property of
licenseholder.

265

370.135(1) 3rd Molest any blue crab trap, line, or
buoy which is property of
licenseholder.

266

372.663(1) 3rd Poach any alligator or crocodilia.

267

414.39(2) 3rd Unauthorized use, possession,
forgery, or alteration of food
stamps, Medicaid ID, value greater
than \$200.

268

414.39(3)(a) 3rd Fraudulent misappropriation of
public assistance funds by
employee/official, value more than
\$200.

269

443.071(1) 3rd False statement or representation to
obtain or increase unemployment
compensation benefits.

270

509.151(1) 3rd Defraud an innkeeper, food or

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lodging value greater than \$300.

271

517.302(1)

3rd

Violation of the Florida Securities and Investor Protection Act.

272

562.27(1)

3rd

Possess still or still apparatus.

273

713.69

3rd

Tenant removes property upon which lien has accrued, value more than \$50.

274

812.014(3)(c)

3rd

Petit theft (3rd conviction); theft of any property not specified in subsection (2).

275

812.081(2)

3rd

Unlawfully makes or causes to be made a reproduction of a trade secret.

276

815.04(4)(a)

3rd

Offense against intellectual property (i.e., computer programs, data).

277

817.52(2)

3rd

Hiring with intent to defraud, motor vehicle services.

278

817.569(2)

3rd

Use of public record or public records information to facilitate commission of a felony.

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826.01	3rd	Bigamy.
828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to defraud \$150 or more.
832.05(2)(b)&(4) (c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
838.15(2)	3rd	Commercial bribe receiving.
838.16	3rd	Commercial bribery.
843.18	3rd	Fleeing by boat to elude a law enforcement officer.
847.011(1)(a)	3rd	Sell, distribute, etc., obscene,

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lewd, etc., material (2nd conviction).

289

849.01 3rd

Keeping gambling house.

290

849.09(1)(a)-(d) 3rd

Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.

291

849.23 3rd

Gambling-related machines; "common offender" as to property rights.

292

849.25(2) 3rd

Engaging in bookmaking.

293

860.08 3rd

Interfere with a railroad signal.

294

860.13(1)(a) 3rd

Operate aircraft while under the influence.

295

893.13(2)(a)2. 3rd

Purchase of cannabis.

296

893.13(6)(a) 3rd

Possession of cannabis (more than 20 grams).

297

934.03(1)(a) 3rd

Intercepts, or procures any other person to intercept, any wire or oral communication.

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(d) LEVEL 4

316.1935(3) 2nd Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a marked patrol vehicle with siren and lights activated.

322.212(1)(a)- 2nd Possession of forged, stolen, (c) counterfeit, or unlawfully issued driver's license; possession of simulated identification.

322.212(4) 2nd Supply or aid in supplying unauthorized driver's license or identification card.

322.212(5)(a) 2nd False application for driver's license or identification card.

499.0051(1) 3rd Failure to maintain or deliver pedigree papers.

499.0051(2) 3rd Failure to authenticate pedigree papers.

499.0051(6) 2nd Sale or delivery, or possession with

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intent to sell, contraband legend
drugs.

306

784.07(2)(b) 3rd Battery of law enforcement officer,
firefighter, intake officer, etc.

307

784.074(1)(c) 3rd Battery of sexually violent
predators facility staff.

308

784.075 3rd Battery on detention or commitment
facility staff.

309

784.078 3rd Battery of facility employee by
throwing, tossing, or expelling
certain fluids or materials.

310

784.08(2)(c) 3rd Battery on a person 65 years of age
or older.

311

784.081(3) 3rd Battery on specified official or
employee.

312

784.082(3) 3rd Battery by detained person on
visitor or other detainee.

313

784.083(3) 3rd Battery on code inspector.

314

784.085 3rd Battery of child by throwing,
tossing, projecting, or expelling

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certain fluids or materials.

315

787.03(1) 3rd Interference with custody; wrongly takes child from appointed guardian.

316

787.04(2) 3rd Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

317

787.04(3) 3rd Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

318

790.115(1) 3rd Exhibiting firearm or weapon within 1,000 feet of a school.

319

790.115(2)(b) 3rd Possessing electric weapon or device, destructive device, or other weapon on school property.

320

790.115(2)(c) 3rd Possessing firearm on school property.

321

800.04(7)(d) 3rd Lewd or lascivious exhibition; offender less than 18 years.

322

810.02(4)(a) 3rd Burglary, or attempted burglary, of an unoccupied structure; unarmed; no

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assault or battery.

323

810.02(4)(b) 3rd Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

324

810.06 3rd Burglary; possession of tools.

325

810.08(2)(c) 3rd Trespass on property, armed with firearm or dangerous weapon.

326

812.014(2)(c)3. 3rd Grand theft, 3rd degree \$10,000 or more but less than \$20,000.

327

812.014(2)(c)4.- 3rd Grand theft, 3rd degree, a will, 10. firearm, motor vehicle, livestock, etc.

328

812.0195(2) 3rd Dealing in stolen property by use of the Internet; property stolen \$300 or more.

329

817.563(1) 3rd Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.

330

817.568(2)(a) 2nd~~3rd~~ Fraudulent use of personal identification information.

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332	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
333	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
334	837.02(1)	3rd	Perjury in official proceedings.
335	837.021(1)	3rd	Make contradictory statements in official proceedings.
336	838.022	3rd	Official misconduct.
337	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
338	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Family Services.
339	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.

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843.15(1)(a) 3rd Failure to appear while on bail for
felony (bond estreature or bond
jumping).

341

874.05(1) 3rd Encouraging or recruiting another to
join a criminal street gang.

342

893.13(2)(a)1. 2nd Purchase of cocaine (or other s.
893.03(1)(a), (b), or (d), (2)(a),
(2)(b), or (2)(c)4. drugs).

343

914.14(2) 3rd Witnesses accepting bribes.

344

914.22(1) 3rd Force, threaten, etc., witness,
victim, or informant.

345

914.23(2) 3rd Retaliation against a witness,
victim, or informant, no bodily
injury.

346

918.12 3rd Tampering with jurors.

347

934.215 3rd Use of two-way communications device
to facilitate commission of a crime.

348

349 Section 6. This act shall take effect July 1, 2004, and
350 shall apply to offenses committed on or after that date.