

Article 19A.

Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means.

§ 14-113.1. Use of false or counterfeit credit device; unauthorized use of another's credit device; use after notice of revocation.

It shall be unlawful for any person knowingly to obtain or attempt to obtain credit, or to purchase or attempt to purchase any goods, property or service, by the use of any false, fictitious, or counterfeit telephone number, credit number or other credit device, or by the use of any telephone number, credit number or other credit device of another without the authority of the person to whom such number or device was issued, or by the use of any telephone number, credit number or other credit device in any case where such number or device has been revoked and notice of revocation has been given to the person to whom issued or he has knowledge or reason to believe that such revocation has occurred. (1961, c. 223, s. 1; 1965, c. 1147; 1967, c. 1244, s. 1; 1971, c. 1213, s. 1.)

§ 14-113.2. Notice defined; prima facie evidence of receipt of notice.

The word "notice" as used in G.S. 14-113.1 shall be construed to include either notice given in person or notice given in writing to the person to whom the number or device was issued. The sending of a notice in writing by registered or certified mail in the United States mail, duly stamped and addressed to such person at his last address known to the issuer, shall be prima facie evidence that such notice was duly received after five days from the date of the deposit in the mail. (1961, c. 223, s. 3; 1965, c. 1147; 1967, c. 1244, s. 1.)

§ 14-113.3. Use of credit device as prima facie evidence of knowledge.

The presentation or use of a revoked, false, fictitious or counterfeit telephone number, credit number, or other credit device for the purpose of obtaining credit or the privilege of making a deferred payment for the article or service purchased shall be prima facie evidence of knowledge that the said credit device is revoked, false, fictitious or counterfeit; and the unauthorized use of any telephone number, credit number or other credit device of another shall be prima facie evidence of knowledge that such use was without the authority of the person to whom such number or device was issued. (1961, c. 223, s. 4; 1965, c. 1147; 1967, c. 1244, s. 1.)

§ 14-113.4. Avoiding or attempting to avoid payment for telecommunication services.

It shall be unlawful for any person to avoid or attempt to avoid, or to cause another to avoid, the lawful charges, in whole or in part, for any telephone or telegraph service or for the transmission of a message, signal or other communication by telephone or telegraph, or over telephone or telegraph facilities by the use of any fraudulent scheme, device, means or method. (1961, c. 223, s. 2; 1965, c. 1147.)

§ 14-113.5. Making, distributing, possessing, transferring, or programming device for theft of telecommunication service; publication of information regarding schemes, devices, means, or methods for such theft; concealment of existence, origin or destination of any telecommunication.

- (a) It shall be unlawful for any person knowingly to:

- (1) Make, distribute, possess, use, or assemble an unlawful telecommunications device or modify, alter, program, or reprogram a telecommunication device designed, adapted, or which is used:
 - a. For commission of a theft of telecommunication service or to acquire or facilitate the acquisition of telecommunications service without the consent of the telecommunication service provider in violation of this Article, or
 - b. To conceal, or assist another to conceal, from any supplier of a telecommunication service provider or from any lawful authority the existence or place of origin or of destination of any telecommunication, or
- (2) Sell, possess, distribute, give, transport, or otherwise transfer to another or offer or advertise for sale any:
 - a. Unlawful telecommunication device, or plans or instructions for making or assembling the same under circumstances evincing an intent to use or employ the unlawful telecommunication device, or to allow the same to be used or employed, for a purpose described in (1)a or (1)b above, or knowing or having reason to believe that the same is intended to be so used, or that the aforesaid plans or instructions are intended to be used for making or assembling the unlawful telecommunication device; or
 - b. Material, including hardware, cables, tools, data, computer software or other information or equipment, knowing that the purchaser or a third person intends to use the material in the manufacture of an unlawful telecommunication device; or
- (3) Publish plans or instructions for making or assembling or using any unlawful telecommunication device, or
- (4) Publish the number or code of an existing, cancelled, revoked or nonexistent telephone number, credit number or other credit device, or method of numbering or coding which is employed in the issuance of telephone numbers, credit numbers or other credit devices with knowledge or reason to believe that it may be used to avoid the payment of any lawful telephone or telegraph toll charge under circumstances evincing an intent to have the telephone number, credit number, credit device or method of numbering or coding so used.
- (5) Repealed by Session Laws 1995, c. 425, s. 1.

(b) Any unlawful telecommunication device, plans, instructions, or publications described in this section may be seized under warrant or incident to a lawful arrest for a violation of this section. Upon the conviction of a person for a violation of this section, the court may order the sheriff of the county in which the person was convicted to destroy as contraband or to otherwise lawfully dispose of the unlawful telecommunication device, plans, instructions, or publication.

(c) The following definitions apply in this section and in G.S. 14-113.6:

- (1) **Manufacture of an unlawful telecommunication device.** – The production or assembly of an unlawful telecommunication device or the modification, alteration, programming or reprogramming of a telecommunication device to be capable of acquiring or facilitating the acquisition of telecommunication service without the consent of the telecommunication service provider.

- (2) Publish. – The communication or dissemination of information to any one or more persons, either orally, in person or by telephone, radio or television, or in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine article, or book.
- (3) Telecommunication device. – Any type of instrument, device, machine or equipment that is capable of transmitting or receiving telephonic, electronic or radio communications, or any part of such instrument, device, machine or equipment, or any computer circuit, computer chip, electronic mechanism or other component that is capable of facilitating the transmission or reception of telephonic, electronic or radio communications.
- (4) Telecommunication service. – Any service provided for a charge or compensation to facilitate the origination, transmission, emission or reception of signs, signals, data, writings, images, sounds or intelligence of any nature of telephone, including cellular or other wireless telephones, wire, radio, electromagnetic, photoelectronic or photo-optical system.
- (5) Telecommunication service provider. – A person or entity providing telecommunication service, including, a cellular, paging or other wireless communications company or other person or entity which, for a fee, supplies the facility, cell site, mobile telephone switching office or other equipment or telecommunication service.
- (6) Unlawful telecommunication device. – Any telecommunication device that is capable, or has been altered, modified, programmed or reprogrammed alone or in conjunction with another access device or other equipment so as to be capable, of acquiring or facilitating the acquisition of any electronic serial number, mobile identification number, personal identification number or any telecommunication service without the consent of the telecommunication service provider. The term includes, telecommunications devices altered to obtain service without the consent of the telecommunication service provider, tumbler phones, counterfeit or clone microchips, scanning receivers of wireless telecommunication service of a telecommunication service provider and other instruments capable of disguising their identity or location or of gaining access to a communications system operated by a telecommunication service provider. This section shall not apply to any device operated by a law enforcement agency in the normal course of its activities. (1965, c. 1147; 1971, c. 1213, s. 2; 1995, c. 425, s. 1.)

§ 14-113.6. Penalties for violation; civil action.

(a) Any person violating any of the provisions of this Article shall be guilty of a Class 2 misdemeanor. However, if the offense is a violation of G.S. 14-113.5 and involves five or more unlawful telecommunication devices the person shall be guilty of a Class G felony.

(b) The court may, in addition to any other sentence authorized by law, order a person convicted of violating G.S. 14-113.5 to make restitution for the offense.

(c) Any person or entity aggrieved by a violation of G.S. 14-113.5 may, in a civil action in any court of competent jurisdiction, obtain appropriate relief, including preliminary and other equitable or declaratory relief, compensatory and punitive damages, reasonable investigation

expenses, costs of suit and any attorney fees as may be provided by law. (1961, c. 223, s. 5; 1965, c. 1147; 1969, c. 1224, s. 6; 1993, c. 539, s. 54; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 425, s. 2.)

§ 14-113.6A. Venue of offenses.

(a) Any of the offenses described in Article 19A which involve the placement of telephone calls may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received.

(b) An offense under former G.S. 14-113.5(3) or 14-113.5(4) (see now G.S. 14-113.5(a)(3) or 14-113.5(a)(4)) may be deemed to have been committed at either the place at which the publication was initiated or at which the publication was received or at which the information so published was utilized to avoid or attempt to avoid the payment of any lawful telephone or telegraph toll charge. (1971, c. 1213, s. 3.)

§ 14-113.7. Article not construed as repealing § 14-100.

This Article shall not be construed as repealing G.S. 14-100. (1961, c. 223, s. 6; 1065, c. 1147.)

§ 14-113.7A. Application of Article to credit cards.

This Article shall not be construed as being applicable to any credit card as the term is defined in G.S. 14-113.8. (1967, c. 1244, s. 1.)