

Ala. Code 1975, § 13A-9-14(b)

Fraudulent Use of a Credit Card or Debit Card

The defendant is charged with fraudulent use of a credit card or debit card.

A person commits the crime of fraudulent use of a credit card or debit card if he/she uses, attempts to use, or allows to be used, a credit card or debit card for the purpose of obtaining property, services, or anything else of value with knowledge that:

- (1) The card is stolen;
- (2) The card has been revoked or cancelled; **(OR)**
- (3) For any other reason the use of the card is unauthorized by either the issuer or the person to whom the credit card or debit card is issued.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant used, attempted to use, or allowed to be used, a credit card or debit card, **[describe card]**, for the purpose of obtaining property, services, or anything else of value, **[describe purpose]**; **(AND)**
- (2) The defendant knew that **[Read as appropriate]**:
 - (a) The card was stolen;
 - (b) The card had been revoked or cancelled; **(OR)**
 - (c) For any other reason the use of the card was unauthorized by either the issuer or the person to whom the credit card or debit card was issued.

[Read as appropriate]: *Credit card* means any instrument or device, including a card to obtain telecommunication services, whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, welfare card, a card used to facilitate the transfer of government benefits such as an electronic benefit transfer card (EBT card) or similar card, or a debit card, or by any other name, including an account number, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, including telecommunication services, on credit or for use in an automated banking device to obtain any of the services offered through the device. [13A-9-14(c)]

[Read as appropriate]: *Debit card* means any instrument or writing or other evidence known by any name issued with or without fee by an issuer for the use of a depositor in obtaining money, goods, services, or anything else of value, payment of

which is made against funds previously deposited in an account with the issuer. [13A-9-14(d)]

A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of the offense of fraudulent use of a credit card or debit card, then you shall find the defendant guilty of fraudulent use of a credit card or debit card.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of fraudulent use of a credit card or debit card, then you cannot find the defendant guilty of fraudulent use of a credit card or debit card.

[If lesser-included offenses are included, the Court should instruct on these offenses at this point.]

Use Notes

The mere use by the original issuer of a credit card or debit card which has expired is not within the provisions of subdivision (b)(3) of this section. [13A-9-14(b)(3)]

[Approved 6-17-16.]