

CHAPTER 174

(HB 4)

AN ACT relating to identity theft.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of the theft of the identity of another when, without the other's consent, he or she knowingly possesses or uses any identifying information of the other person, such as one's name, Social Security number, birth date, personal identification number or code, which is kept in documents, photo or electrical copies, computer storage, or any other form of document retrieval and storage, and the theft is committed with the intent to represent that he or she is the other person for the purpose of:*
 - (a) *Depriving the other person of property;*
 - (b) *Obtaining benefits or property to which he or she would otherwise not be entitled;*
 - (c) *Making financial or credit transactions using the other person's identity;*
 - (d) *Avoiding detection; or (e) Commercial or political benefit.*
- (2) *Theft of identity is a Class D felony.*
- (3) *This section shall not apply when a person obtains the identity of another to misrepresent his or her age for the purpose of obtaining alcoholic beverages, tobacco, or another privilege denied to minors.*
- (4) *This section does not apply to credit or debit card fraud under KRS 434.550 to 434.730.*
- (5) *Where the offense consists of theft by obtaining or trafficking in the personal identity of another person, the venue of the prosecution may be in either the county where the offense was committed or the county where the other person resides.*
- (6) *A person found guilty of violating any provisions of this section shall forfeit any lawful claim to the identifying information, property, or other realized benefit of the other person as a result of such violation.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of trafficking in stolen identities when without the other's consent, he manufactures, sells, transfers, purchases, or possesses with intent to manufacture, transfer, purchase, or sell the personal identity of another person for any purpose listed in subsection (1) of Section 1 of this Act. The personal identity of an individual includes any identifying information of that person, such as one's name, Social Security number, birth date, personal identification number or code, which is kept in documents, photo or electrical copies, computer storage, or any other form of document retrieval and storage.*
- (2) *Possession of five (5) or more separate identities shall be prima facie evidence that the identities are possessed for the purpose of trafficking.*
- (3) *Trafficking in stolen identities is a Class C felony.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

- (1) *Anyone who is a victim under Section 1 or Section 2 of this Act shall have a cause of action, either where the victim resides or the defendant resides, for compensatory and punitive damages against anyone who violates Section 1 or Section 2 of this Act.*
- (2) *The statute of limitations for cases under the provisions of this section shall be five (5) years from the date of the discovery of the violation of Section 1 or Section 2 of this Act.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

- (1) *A person found guilty of violating any provisions of Section 1 or Section 2 of this Act shall, in addition to any other punishment, be ordered to make restitution for financial loss sustained by a victim as a result of the violation. Financial loss may include any costs incurred by the victim in correcting the credit history of the victim or any costs incurred in connection with any civil or administrative proceeding to satisfy any debt or other obligation of such victim, including lost wages and attorney's fees.*
- (2) *A person found guilty of violating any provisions of Section 1 or Section 2 of this Act shall pay restitution to the person or entity that suffers the financial loss. In addition to the financial loss detailed in subsection (1) of this section, the person or entity may include a financial institution, insurance company, or bonding association that suffers direct financial loss as a result of the violation.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Attorney General shall have concurrent jurisdiction with Commonwealth's attorneys and county attorneys for the prosecution of offenses under and the enforcement of the provisions of Sections 1, 2, 3, and 4 of this Act.

Approved March 28, 2000

