

434.650 Fraudulent use -- Presumption as to knowledge of revocation.

- (1) (a) A person who, with intent to defraud the issuer, a participating party, a person, or organization providing money, goods, services, or anything else of value, or any other person:
1. Uses for the purpose of obtaining money, goods, services, or anything else of value a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he or she knows is forged, expired, or revoked;
 2. Obtains money, goods, services, or anything else of value by representing without consent of the cardholder that he or she is the holder of a specified card or by representing that he or she is the holder of a card and such card has not in fact been issued;
 3. Uses a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he or she knows is forged, expired, or revoked, as authority or identification to cash or attempts to cash or otherwise negotiate or transfer a check or other order for payment of money, whether or not negotiable, if said negotiation or transfer or attempt to negotiate or transfer would constitute a crime under KRS 514.040 or 516.030; or
 4. Deposits into his or her account or any account, via an automated banking device, a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document not his or her lawful or legal property;
- is guilty as provided in paragraph (b) of this subsection.
- (b) The penalty for violating paragraph (a) of this subsection is a Class B misdemeanor unless:
1. The value of all money, goods, services, or other things of value obtained in violation of this section over a six (6) month period is five hundred dollars (\$500) or more but is less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;
 2. The value of all money, goods, services, or other things of value obtained in violation of this section over a six (6) month period is one thousand dollars (\$1,000) or more but is less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
 3. The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or
 4. The value of all money, goods, services, or other things of value obtained in violation of this section over a six (6) month period is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.
- (2) A person who receives money, goods, services, or anything else of value as a result

of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document so deposited was false, fictitious, forged, altered, or counterfeit or that the above described deposited item was not his lawful or legal property, violates this subsection and is subject to the penalties set forth in subsection (1) of this section.

- (3) Knowledge of revocation shall be presumed to have been received by a cardholder four (4) days after it has been mailed to him or her at the address set forth on the credit or debit card or at his or her last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred (500) miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten (10) days after mailing by registered or certified mail.

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History: Amended 2021 Ky. Acts ch. 66, sec. 5, effective June 29, 2021. -- Amended 2009 Ky. Acts ch. 106, sec. 1, effective June 25, 2009. -- Amended 1992 Ky. Acts ch. 463, sec. 55, effective July 14, 1992. -- Amended 1978 Ky. Acts ch. 67, sec. 11, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 406, sec. 326. -- Created 1970 Ky. Acts ch. 83, sec. 11.