

Trademark counterfeiting in the first degree is a class C felony.

#### **564 SEIZURE AND DESTRUCTION OF GOODS BEARING COUNTERFEIT TRADEMARKS**

Any goods manufactured, sold, offered for sale, distributed or produced in violation of this chapter may be seized by any police officer, who must deliver the same to the judge before whom the person arrested is required to be taken. The judge must, upon arraignment of the defendant, determine whether the goods had been manufactured, sold, offered for sale, distributed or produced in violation of this section, and upon a finding that the goods had been manufactured, sold, offered for sale, distributed, or produced in violation of this section, shall cause such articles to be delivered to the Nation Prosecutor. Upon conviction of the defendant, the Nation Prosecutor must cause to be destroyed the articles in respect whereof the defendant stands convicted, and which remain in the possession and control of the Nation Prosecutor. Destruction shall not include auction, sale or distribution of the items in their original form.

### **G. OFFENSES INVOLVING FRAUD**

#### **565 FORGERY; DEFINITIONS OF TERMS**

1. "Written instrument" means any instrument or article, including computer data or a computer program, containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.
2. "Complete written instrument" means one which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof. An endorsement, attestation, acknowledgment or other similar signature or statement is deemed both a complete written instrument in itself and a part of the main instrument in which it is contained or to which it attaches.
3. "Incomplete written instrument" means one which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument.
4. "Falsely make." A person "falsely makes" a written instrument when he makes or draws a complete written instrument in its entirety, or an incomplete written instrument, which purports to be an authentic creation of its ostensible maker or drawer, but which is not such either because the ostensible maker or drawer is fictitious or because, if real, he did not authorize the making or drawing thereof.
5. "Falsely complete." A person "falsely completes" a written instrument when, by adding, inserting or changing matter, he transforms an incomplete written instrument into a complete one, without the authority of anyone entitled to grant it, so that such complete instrument appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer.
6. "Falsely alter." A person "falsely alters" a written instrument when, without the authority of anyone entitled to grant it, he changes a written instrument, whether it be in complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that such instrument in its thus altered

form appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer.

7. "Forged instrument" means a written instrument which has been falsely made, completed or altered.

#### **566 FORGERY IN THE THIRD DEGREE**

A Native American is guilty of forgery in the third degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument.

Forgery in the third degree is a class A misdemeanor.

#### **567 FORGERY IN THE SECOND DEGREE**

A Native American is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be, or which is calculated to become or to represent if completed:

1. A deed, will, codicil, contract, assignment, commercial instrument, credit card, or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or
2. A public record, or an instrument filed or required or authorized by law to be filed in or with a public office or public servant; or
3. A written instrument officially issued or created by a public office, public servant or governmental instrumentality; or
4. Part of an issue of tokens, public transportation transfers, certificates or other articles manufactured and designed for use as symbols of value usable in place of money for the purchase of property or services; or
5. A prescription of a duly licensed physician or other person authorized to issue the same for any drug or any instrument or device used in the taking or administering of drugs for which a prescription is required by law.

Forgery in the second degree is a class D felony.

#### **568 FORGERY IN THE FIRST DEGREE**

A Native American is guilty of forgery in the first degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be, or which is calculated to become or to represent if completed:

1. Part of an issue of money, stamps, securities or other valuable instruments issued by a government or governmental instrumentality; or
2. Part of an issue of stock, bonds or other instruments representing interests in or claims against a corporate or other organization or its property.

Forgery in the first degree is a class C felony.

**569 CRIMINAL POSSESSION OF A FORGED INSTRUMENT IN THE THIRD DEGREE**

A Native American is guilty of criminal possession of a forged instrument in the third degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses a forged instrument.

Criminal possession of a forged instrument in the third degree is a class A misdemeanor.

**570 CRIMINAL POSSESSION OF A FORGED INSTRUMENT IN THE SECOND DEGREE**

A Native American is guilty of criminal possession of a forged instrument in the second degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses any forged instrument of a kind specified in section 574.

Criminal possession of a forged instrument in the second degree is a class D felony.

**571 CRIMINAL POSSESSION OF A FORGED INSTRUMENT IN THE SECOND DEGREE; PRESUMPTION**

A Native American who possesses two or more forged instruments, each of which purports to be a credit card or debit card, as those terms are defined in subdivisions seven and eight of section 516, is presumed to possess the same with knowledge that they are forged and with intent to defraud, deceive or injure another.

**572 CRIMINAL POSSESSION OF A FORGED INSTRUMENT IN THE FIRST DEGREE**

A Native American is guilty of criminal possession of a forged instrument in the first degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses any forged instrument of a kind specified in section 568.

Criminal possession of a forged instrument in the first degree is a class C felony.

**573 CRIMINAL POSSESSION OF A FORGED INSTRUMENT; NO DEFENSE**

In any prosecution for criminal possession of a forged instrument, it is no defense that the defendant forged or participated in the forgery of the instrument in issue; provided that a person may not be convicted of both criminal possession of a forged instrument and forgery with respect to the same instrument.

**574 CRIMINAL POSSESSION OF FORGERY DEVICES**

A Native American is guilty of criminal possession of forgery devices when:

1. He makes or possesses with knowledge of its character any plate, die or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments; or
2. With intent to use, or to aid or permit another to use, the same for purposes of forgery, he makes or possesses any device, apparatus, equipment or article capable of or adaptable to such use.

Criminal possession of forgery devices is a felony.

**575 CRIMINAL SIMULATION**

A Native American is guilty of criminal simulation when:

1. With intent to defraud, he makes or alters any object in such manner that it appears to have an antiquity, rarity, source or authorship which it does not in fact possess; or
2. With knowledge of its true character and with intent to defraud, he utters or possesses an object so simulated.

Criminal simulation is a class A misdemeanor.

**576 CRIMINAL POSSESSION OF AN ANTI-SECURITY ITEM**

A Native American is guilty of criminal possession of an anti-security item, when with intent to steal property at a retail mercantile establishment he knowingly possesses in such an establishment an item designed for the purpose of overcoming detection of security markings or attachments placed on property offered for sale at such an establishment.

Criminal possession of an anti-security item is a class B misdemeanor.

**577 UNLAWFULLY USING SLUGS; DEFINITIONS OF TERMS**

The following definitions are applicable to sections 578 and 579:

1. "Coin machine" means a coin box, turnstile, vending machine or other mechanical or electronic device or receptacle designed (a) to receive a coin or bill or a token made for the purpose, and (b) in return for the insertion or deposit thereof, automatically to offer, to provide, to assist in providing or to permit the acquisition of some property or some service.
2. "Slug" means an object or article which, by virtue of its size, shape or any other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token.
3. "Value" of a slug means the value of the coin, bill or token for which it is capable of being substituted.

**578 UNLAWFULLY USING SLUGS IN THE SECOND DEGREE**

A Native American is guilty of unlawfully using slugs in the second degree when:

1. With intent to defraud the owner of a coin machine, he inserts or deposits a slug in such machine; or
2. He makes, possesses or disposes of a slug with intent to enable a person to insert or deposit it in a coin machine.

Unlawfully using slugs in the second degree is a class B misdemeanor.

**579 UNLAWFULLY USING SLUGS IN THE FIRST DEGREE**

A Native American is guilty of unlawfully using slugs in the first degree when he makes, possesses or disposes of slugs with intent to enable a person to insert or deposit them in a coin machine, and the value of such slugs exceeds one hundred dollars.

Unlawfully using slugs in the first degree is a class E felony.

**580 FORGERY OF A VEHICLE IDENTIFICATION NUMBER**

A Native American is guilty of forgery of a vehicle identification number when:

1. He knowingly destroys, covers, defaces, alters or otherwise changes the form or appearance of a vehicle identification number on any vehicle or component part thereof, except tires; or
2. He removes any such number from a vehicle or component part thereof, except as required by the provisions of the vehicle and traffic law; or
3. He affixes a vehicle identification number to a vehicle, except in accordance with the provisions of the vehicle and traffic law.

Forgery of a vehicle identification number is a class E felony.

**581 ILLEGAL POSSESSION OF A VEHICLE IDENTIFICATION NUMBER**

A Native American is guilty of illegal possession of a vehicle identification number when:

1. He knowingly possesses a vehicle identification number label, sticker or plate which has been removed from the vehicle or vehicle part to which such label, sticker or plate was affixed by the manufacturer in accordance with the provisions of the federal motor vehicle and information cost savings act (15 U.S.C. section 1901, et seq.) and regulations promulgated thereunder or in accordance with the provisions of the vehicle and traffic law; or
2. He knowingly possesses a vehicle or vehicle part to which is attached a vehicle identification number label, sticker or plate or on which is stamped or embossed a vehicle identification number which has been destroyed, covered, defaced, altered or otherwise changed, or a vehicle or vehicle part from which a vehicle identification number label, sticker or plate has been removed, which label, sticker or plate was affixed in accordance with the provisions of the federal motor vehicle and information cost savings act (15 U.S.C. section 1901, et seq.) or regulations promulgated thereunder, except when he has complied with the provisions of the vehicle and traffic law and regulations promulgated thereunder; or
3. He knowingly possesses a vehicle, or part of a vehicle to which by law or regulation must be attached a vehicle identification number, either (a) with a vehicle identification number label, sticker, or plate which was not affixed by the manufacturer in accordance with the provisions of the federal motor vehicle and information cost savings act (15 U.S.C. section 1901, et seq.) or regulations promulgated thereunder, or in accordance with the provisions of the vehicle and traffic law or regulations promulgated thereunder, or (b) on which is affixed, stamped or embossed a vehicle identification number which was not affixed, stamped or embossed by the manufacturer, or in accordance with the provisions of the federal motor

vehicle and information cost savings act (15 U.S.C. section 1901, et seq.) or regulations promulgated thereunder or in accordance with the provisions of the vehicle and traffic law or regulations promulgated thereunder.

Illegal possession of a vehicle identification number is a class E felony.

## **582 ILLEGAL POSSESSION OF A VEHICLE IDENTIFICATION NUMBER; RESUMPTIONS**

1. A Native American is presumed to knowingly possess a vehicle or vehicle part in violation of subdivision two of section 581, when he possesses any combination of five such whole vehicles or individual vehicle parts, none of which are attached to or contained in the same vehicle.
2. A Native American is presumed to knowingly possess a vehicle or vehicle part in violation of subdivision three of section 581 when he possesses any combination of five such whole vehicles or individual vehicle parts, none of which are attached to or contained in the same vehicle.

## **583 DEFINITIONS OF TERMS**

The following definitions are applicable to this chapter:

1. "Enterprise" means any entity of one or more persons, corporate or otherwise, public or private, engaged in business, commercial, professional, industrial, eleemosynary, social, political or governmental activity.
2. "Business record" means any writing or article, including computer data or a computer program, kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity.
3. "Written instrument" means any instrument or article, including computer data or a computer program, containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.

## **584 FALSIFYING BUSINESS RECORDS IN THE SECOND DEGREE**

A Native American is guilty of falsifying business records in the second degree when, with intent to defraud, he:

1. Makes or causes a false entry in the business records of an enterprise; or
2. Alters, erases, obliterates, deletes, removes or destroys a true entry in the business records of an enterprise; or
3. Omits to make a true entry in the business records of an enterprise in violation of a duty to do so which he knows to be imposed upon him by law or by the nature of his position; or

4. Prevents the making of a true entry or causes the omission thereof in the business records of an enterprise.

Falsifying business records in the second degree is a class A misdemeanor.

#### **585 FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE**

A Native American is guilty of falsifying business records in the first degree when he commits the crime of falsifying business records in the second degree, and when his intent to defraud includes intent to commit another crime or to aid or conceal the commission thereof.

Falsifying business records in the first degree is a class E felony.

#### **586 FALSIFYING BUSINESS RECORDS; DEFENSE**

In any prosecution for falsifying business records, it is an affirmative defense that the defendant was a clerk, bookkeeper or other employee who, without personal benefit, merely executed the orders of his employer or of a superior officer or employee generally authorized to direct his activities.

#### **587 TAMPERING WITH PUBLIC RECORDS IN THE SECOND DEGREE**

A Native American is guilty of tampering with public records in the second degree when, knowing that he does not have the authority of anyone entitled to grant it, he knowingly removes, mutilates, destroys, conceals, makes a false entry in or falsely alters any record or other written instrument filed with, deposited in, or otherwise constituting a record of a public office or public servant.

Tampering with public records in the second degree is a Class A misdemeanor.

#### **588 TAMPERING WITH PUBLIC RECORDS IN THE FIRST DEGREE**

A Native American is guilty of tampering with public records in the first degree when, knowing that he does not have the authority of anyone entitled to grant it, and with intent to defraud, he knowingly removes, mutilates, destroys, conceals, makes a false entry in or falsely alters any record or other written instrument filed with, deposited in, or otherwise constituting a record of a public office or public servant.

Tampering with public records in the first degree is a class D felony.

#### **589 OFFERING A FALSE INSTRUMENT FOR FILING IN THE SECOND DEGREE**

A Native American is guilty of offering a false instrument for filing in the second degree when, knowing that a written instrument contains a false statement or false information, he offers or presents it to a public office or public servant with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant.

Offering a false instrument for filing in the second degree is a class A misdemeanor.

## **590 OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE**

A Native American is guilty of offering a false instrument for filing in the first degree when, knowing that a written instrument contains a false statement or false information, and with intent to defraud the state or any political subdivision thereof, he offers or presents it to a public office or public servant with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant.

Offering a false instrument for filing in the first degree is a class E felony.

## **591 ISSUING A FALSE CERTIFICATE**

A Native American is guilty of issuing a false certificate when, being a public servant authorized by law to make or issue official certificates or other official written instruments, and with intent to defraud, deceive or injure another person, he issues such an instrument, or makes the same with intent that it be issued, knowing that it contains a false statement or false information.

Issuing a false certificate is a class E felony.

## **592 ISSUING A FALSE FINANCIAL STATEMENT**

A Native American is guilty of issuing a false financial statement when, with intent to defraud:

1. He knowingly makes or utters a written instrument which purports to describe the financial condition or ability to pay of some person and which is inaccurate in some material respect; or
2. He represents in writing that a written instrument purporting to describe a person's financial condition or ability to pay as of a prior date is accurate with respect to such person's current financial condition or ability to pay, whereas he knows it is materially inaccurate in that respect.

Issuing a false financial statement is a class A misdemeanor.

## **593 INSURANCE FRAUD; DEFINITION OF TERMS**

The following definitions are applicable to this chapter:

1. "Insurance policy" has the meaning assigned to insurance contract by subsection (a) of section one thousand one hundred one of the New York insurance law except it shall include reinsurance contracts, purported insurance policies and purported reinsurance contracts.
2. "Statement" includes, but is not limited to, any notice, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, x-ray, test result, and other evidence of loss, injury or expense.
3. "Person" includes any individual, firm, association or corporation.
4. "Personal insurance" means a policy of insurance insuring a natural person against any of the following contingencies:



- A. loss of or damage to real property used predominantly for residential purposes and which consists of not more than four dwelling units, other than hotels, motels and rooming houses;
- B. loss of or damage to personal property which is not used in the conduct of a business;
- C. losses or liabilities arising out of the ownership, operation, or use of a motor vehicle, predominantly used for non-business purposes;
- D. other liabilities for loss of, damage to, or injury to persons or property, not arising from the conduct of a business;
- E. death, including death by personal injury, or the continuation of life, or personal injury by accident, or sickness, disease or ailment, excluding insurance providing disability benefits pursuant to workers' compensation.

A policy of insurance which insures any of the contingencies listed in paragraphs (a) through (e) of this subdivision as well as other contingencies shall be personal insurance if that portion of the annual premium attributable to the listed contingencies exceeds that portion attributable to other contingencies.

5. "Commercial insurance" means insurance other than personal insurance.

**594 INSURANCE FRAUD; DEFINED**

A fraudulent insurance act is committed by any person who, knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer or purported insurer, or any agent thereof, any written statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which he knows to: (i) contain materially false information concerning any fact material thereto; or (ii) conceal, for the purpose of misleading, information concerning any fact material thereto.

**595 INSURANCE FRAUD IN THE FIFTH DEGREE**

A Native American is guilty of insurance fraud in the fifth degree when he commits a fraudulent insurance act.

Insurance fraud in the fifth degree is a class A misdemeanor.

**596 INSURANCE FRAUD IN THE FOURTH DEGREE**

A Native American is guilty of insurance fraud in the fourth degree when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of one thousand dollars.

Insurance fraud in the fourth degree is a class E felony.

**597 INSURANCE FRAUD IN THE THIRD DEGREE**

A Native American is guilty of insurance fraud in the third degree when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of three thousand dollars.

Insurance fraud in the third degree is a class D felony.

**598 INSURANCE FRAUD IN THE SECOND DEGREE**

A Native American is guilty of insurance fraud in the second degree when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of fifty thousand dollars.

Insurance fraud in the second degree is a class C felony.

**599 INSURANCE FRAUD IN THE FIRST DEGREE**

A Native American is guilty of insurance fraud in the first degree when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of one million dollars.

Insurance fraud in the first degree is a class B felony.

**600 COMMERCIAL BRIBING IN THE SECOND DEGREE**

A Native American is guilty of commercial bribing in the second degree when he confers, or offers or agrees to confer, any benefit upon any employee, agent or fiduciary without the consent of the latter's employer or principal, with intent to influence his conduct in relation to his employer's or principal's affairs.

Commercial bribing in the second degree is a class A misdemeanor.

**601 COMMERCIAL BRIBING IN THE FIRST DEGREE**

A Native American is guilty of commercial bribing in the first degree when he confers, or offers or agrees to confer, any benefit upon any employee, agent or fiduciary without the consent of the latter's employer or principal, with intent to influence his conduct in relation to his employer's or principal's affairs, and when the value of the benefit conferred or offered or agreed to be conferred exceeds one thousand dollars and causes economic harm to the employer or principal in an amount exceeding two hundred fifty dollars.

Commercial bribing in the first degree is a class E felony.

**602 COMMERCIAL BRIBE RECEIVING IN THE SECOND DEGREE**

An employee, agent or fiduciary is guilty of commercial bribe receiving in the second degree when, without the consent of his employer or principal, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that such benefit will influence his conduct in relation to his employer's or principal's affairs.

Commercial bribe receiving in the second degree is a class A misdemeanor.

**603 COMMERCIAL BRIBE RECEIVING IN THE FIRST DEGREE**

An employee, agent or fiduciary is guilty of commercial bribe receiving in the first degree when, without the consent of his employer or principal, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that such benefit will influence his conduct in relation to his employer's or principal's affairs, and when the value of the benefit solicited, accepted or agreed to be accepted exceeds one thousand dollars and causes economic harm to the employer or principal in an amount exceeding two hundred fifty dollars.

Commercial bribe receiving in the first degree is a class E felony.

**604 BRIBERY OF LABOR OFFICIAL; DEFINITION OF TERM**

As used in this chapter, "labor official" means any duly appointed representative of a labor organization or any duly appointed trustee or representative of an employee welfare trust fund.

**605 BRIBING A LABOR OFFICIAL**

A Native American is guilty of bribing a labor official when, with intent to influence a labor official in respect to any of his acts, decisions or duties as such labor official, he confers, or offers or agrees to confer, any benefit upon him.

Bribing a labor official is a class D felony.

**606 BRIBING A LABOR OFFICIAL; DEFENSE**

In any prosecution for bribing a labor official, it is a defense that the defendant conferred or agreed to confer the benefit involved upon the labor official as a result of conduct of the latter constituting larceny committed by means of extortion, or an attempt to commit the same, or coercion, or an attempt to commit coercion.

**607 BRIBE RECEIVING BY A LABOR OFFICIAL**

A labor official is guilty of bribe receiving by a labor official when he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that such benefit will influence him in respect to any of his acts, decisions, or duties as such labor official.

Bribe receiving by a labor official is a class D felony.

**608 BRIBE RECEIVING BY A LABOR OFFICIAL; NO DEFENSE**

The crimes of (a) bribe receiving by a labor official, and (b) larceny committed by means of extortion, attempt to commit the same, coercion or attempt to commit coercion, are not mutually exclusive, and it is no defense to a prosecution for bribe receiving by a labor official that, by reason of the same conduct, the defendant also committed one of such other specified crimes.

## **609 SPORTS BRIBERY AND TAMPERING; DEFINITIONS OF TERMS**

As used in this chapter:

1. "Sports contest" means any professional or amateur sport or athletic game or contest viewed by the public.
2. "Sports participant" means any person who participates or expects to participate in a sports contest as a player, contestant or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant or team.
3. "Sports official" means any person who acts or expects to act in a sports contest as an umpire, referee, judge or otherwise to officiate at a sports contest.
4. "Pari-mutuel betting" is such betting as is authorized by law.
5. "Pari-mutuel horse race" means any horse race upon which betting is conducted by law.

## **610 SPORTS BRIBING**

A Native American is guilty of sports bribing when he:

1. Confers, or offers or agrees to confer, any benefit upon a sports participant with intent to influence him not to give his best efforts in a sports contest; or
2. Confers, or offers or agrees to confer, any benefit upon a sports official with intent to influence him to perform his duties improperly.

Sports bribing is a class D felony.

## **611 SPORTS BRIBE RECEIVING**

A Native American is guilty of sports bribe receiving when:

1. Being a sports participant, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he will thereby be influenced not to give his best efforts in a sports contest; or
2. Being a sports official, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he will perform his duties improperly.

Sports bribe receiving is a class E felony.

## **612 TAMPERING WITH A SPORTS CONTEST IN THE SECOND DEGREE**

A Native American is guilty of tampering with a sports contest when, with intent to influence the outcome of a sports contest, he tampers with any sports participant, sports official or with any animal or equipment or other thing involved in the conduct or operation of a sports contest in a manner contrary to the rules and usages purporting to govern such a contest.

Tampering with a sports contest in the second degree is a class A misdemeanor.

**613 TAMPERING WITH A SPORTS CONTEST IN THE FIRST DEGREE**

A Native American is guilty of tampering with a sports contest in the first degree when, with intent to influence the outcome of a pari-mutuel horse race:

1. He affects any equine animal involved in the conduct or operation of a pari-mutuel horse race by administering to the animal in any manner whatsoever any controlled substance listed in section thirty-three hundred six of the New York public health law; or
2. He knowingly enters or furnishes to another person for entry or brings into this state for entry into a pari-mutuel horse race, or rides or drives in any pari-mutuel horse race any running, trotting or pacing horse, mare, gelding, colt or filly under an assumed name, or deceptively out of its proper class, or that has been painted or disguised or represented to be any other or different horse, mare, gelding, colt or filly from that which it actually is; or
3. He knowingly and falsely registers with the jockey club, United States trotting association, American quarter horse association or national steeplechase and hunt association a horse, mare, gelding, colt or filly previously registered under a different name; or
4. He agrees with one or more persons to enter such misrepresented or drugged animal in a pari-mutuel horse race. A person shall not be convicted of a violation of this subdivision unless an overt act is alleged and proved to have been committed by one of said persons in furtherance of said agreement.

Tampering with a sports contest in the first degree is a class E felony.

**614 IMPAIRING THE INTEGRITY OF A PARI-MUTUEL BETTING SYSTEM IN THE SECOND DEGREE**

A Native American is guilty of impairing the integrity of a pari-mutuel betting system in the second degree when, with the intent to obtain either any payment for himself or for a third person or with the intent to defraud any person he:

1. Alters, changes or interferes with any equipment or device used in connection with pari-mutuel betting; or
2. Causes any false, inaccurate, delayed or unauthorized data, impulse or signal to be fed into, or transmitted over, or registered in or displayed upon any equipment or device used in connection with pari-mutuel betting.

Impairing the integrity of a pari-mutuel betting system in the second degree is a class E felony.

**615 IMPAIRING THE INTEGRITY OF A PARI-MUTUEL BETTING SYSTEM IN THE FIRST DEGREE**

A Native American is guilty of impairing the integrity of a pari-mutuel betting system in the first degree when, with the intent to obtain either any payment for himself or for a third person or with the intent to defraud any person, and when the value of the payment exceeds one thousand five hundred dollars he:

1. Alters, changes or interferes with any equipment or device used in connection with

pari-mutuel betting; or

2. Causes any false, inaccurate, delayed or unauthorized data, impulse or signal to be fed into, or transmitted over, or registered in or displayed upon any equipment or device used in connection with pari-mutuel betting.

Impairing the integrity of a pari-mutuel betting system in the first degree is a class D felony.

#### **616 RENT GOUGING IN THE THIRD DEGREE**

A Native American is guilty of rent gouging in the third degree when, in connection with the leasing, rental or use of real property, he solicits, accepts or agrees to accept from a person some consideration of value, less than two hundred fifty dollars, in addition to lawful rental and other lawful charges, upon an agreement or understanding that the furnishing of such consideration will increase the possibility that any person may obtain or renew the lease, rental or use of such property, or that a failure to furnish it will decrease the possibility that any person may obtain or renew the same.

Rent gouging in the third degree is a class B misdemeanor.

#### **617 RENT GOUGING IN THE SECOND DEGREE**

A Native American is guilty of rent gouging in the second degree when, in connection with the leasing, rental or use of real property, he solicits, accepts or agrees to accept from a person some consideration of value, of two hundred fifty dollars or more, in addition to lawful rental and other lawful charges, upon an agreement or understanding that the furnishing of such consideration will increase the possibility that any person may obtain or renew the lease, rental or use of such property, or that a failure to furnish it will decrease the possibility that any person may obtain or renew the same.

Rent gouging in the second degree is a class A misdemeanor.

#### **618 RENT GOUGING IN THE FIRST DEGREE**

A Native American is guilty of rent gouging in the first degree when, in the course of a scheme constituting a systematic ongoing course of conduct in connection with the leasing, rental or use of three or more apartment units, the rental price of which is regulated pursuant to the provisions of federal, state or local law, he solicits, accepts or agrees to accept from one or more persons in three separate transactions some consideration of value, knowing that such consideration is in addition to lawful rental and other lawful charges established pursuant to the provisions of such federal, state or local law, and upon an agreement or understanding that the furnishing of such consideration will increase the possibility that any person may obtain or renew the lease, rental or use of such property, or that a failure to furnish it will decrease the possibility that any person may obtain or renew same, and thereby obtains such consideration from one or more persons.

Rent gouging in the first degree is a class E felony.

#### **619 FRAUD IN INSOLVENCY**

1. As used in this section, "administrator" means an assignee or trustee for the benefit of creditors, a liquidator, a receiver or any other person entitled to administer property for the benefit of creditors.
2. A Native American is guilty of fraud in insolvency when, with intent to defraud any creditor

and knowing that proceedings have been or are about to be instituted for the appointment of an administrator, or knowing that a composition agreement or other arrangement for the benefit of creditors has been or is about to be made, he

- A. conveys, transfers, removes, conceals, destroys, encumbers or otherwise disposes of any part of or any interest in the debtor's estate; or
- B. obtains any substantial part of or interest in the debtor's estate; or
- C. presents to any creditor or to the administrator any writing or record relating to the debtor's estate knowing the same to contain a false material statement; or
- D. misrepresents or fails or refuses to disclose to the administrator the existence, amount or location of any part of or any interest in the debtor's estate, or any other information which he is legally required to furnish to such administrator.

Fraud in insolvency is a class A misdemeanor.

#### **620 FRAUD INVOLVING A SECURITY INTEREST**

A Native American is guilty of fraud involving a security interest when, having executed a security agreement creating a security interest in personal property securing a monetary obligation owed to a secured party, and:

- 1. Having under the security agreement both the right sale or other disposition of the property and the duty to account to the secured party for the proceeds of disposition, he sells or otherwise disposes of the property and wrongfully fails to account to the secured party for the proceeds of disposition; or
- 2. Having under the security agreement no right of sale or other disposition of the property, he knowingly secretes, withholds or disposes of such property in violation of the security agreement.

Fraud involving a security interest is a class A misdemeanor.

#### **621 FRAUDULENT DISPOSITION OF MORTGAGED PROPERTY**

A Native American is guilty of fraudulent disposition of mortgaged property when, having theretofore executed a mortgage of real or personal property or any instrument intended to operate as such, he sells, assigns, exchanges, secretes, injures, destroys or otherwise disposes of any part of the property, upon which the mortgage or other instrument is at the time a lien, with intent thereby to defraud the mortgagee or a purchaser thereof.

Fraudulent disposition of mortgaged property is a class A misdemeanor.

## **622 FRAUDULENT DISPOSITION OF PROPERTY SUBJECT TO A CONDITIONAL SALE CONTRACT**

A Native American is guilty of fraudulent disposition of property subject to a conditional sale contract when, prior to the performance of the condition of a conditional sale contract and being the buyer or any legal successor in interest of the buyer, he sells, assigns, mortgages, exchanges, secretes, injures, destroys or otherwise disposes of the goods subject to the conditional sale contract under claim of full ownership, with intent thereby to defraud another.

Fraudulent disposition of property subject to a conditional sale contract is a class A misdemeanor.

## **623 ISSUING A BAD CHECK; DEFINITIONS OF TERMS**

The following definitions are applicable to this chapter:

1. "Check" means any check, draft or similar sight order for the payment of money which is not post-dated with respect to the time of utterance.
2. "Drawer" of a check means a person whose name appears thereon as the primary obligor, whether the actual signature be that of himself or of a person purportedly authorized to draw the check in his behalf.
3. "Representative drawer" means a person who signs a check as drawer in a representative capacity or as agent of the person whose name appears thereon as the principal drawer or obligor.
4. "Utter." A person "utters" a check when, as a drawer or representative drawer thereof, he delivers it or causes it to be delivered to a person who thereby acquires a right against the drawer with respect to such check. One who draws a check with intent that it be so delivered is deemed to have uttered it if the delivery occurs.
5. "Pass." A person "passes" a check when, being a payee, holder or bearer of a check which previously has been or purports to have been drawn and uttered by another, he delivers it, for a purpose other than collection, to a third person who thereby acquires a right with respect thereto.
6. "Funds" means money or credit.
7. "Insufficient funds." A drawer has "insufficient funds" with a drawee to cover a check when he has no funds or account whatever, or funds in an amount less than that of the check; and a check dishonored for "no account" shall also be deemed to have been dishonored for "insufficient funds."

## **624 ISSUING A BAD CHECK**

A Native American is guilty of issuing a bad check when:

1. (a) As a drawer or representative drawer, he utters a check knowing that he or his principal, as the case may be, does not then have sufficient funds with the drawee to cover it, and (b) he intends or believes at the time of utterance that payment will be refused by the drawee upon presentation, and (c) payment is refused by the drawee upon presentation; or



2. (a) He passes a check knowing that the drawer thereof does not then have sufficient funds with the drawee to cover it, and (b) he intends or believes at the time the check is passed that payment will be refused by the drawee upon presentation, and (c) payment is refused by the drawee upon presentation.

Issuing a bad check is a class B misdemeanor.

#### **625 ISSUING A BAD CHECK; PRESUMPTIONS**

1. When the drawer of a check has insufficient funds with the drawee to cover it at the time of utterance, the subscribing drawer or representative drawer, as the case may be, is presumed to know of such insufficiency.
2. A subscribing drawer or representative drawer, as the case may be, of an ultimately dishonored check is presumed to have intended or believed that the check would be dishonored upon presentation when:
  - A. The drawer had no account with the drawee at the time of utterance; or
  - B. (i) The drawer had insufficient funds with the drawee at the time of utterance, and (ii) the check was presented to the drawee for payment not more than thirty days after the date of utterance, and (iii) the drawer had insufficient funds with the drawee at the time of presentation.
3. Dishonor of a check by the drawee and insufficiency of the drawer's funds at the time of presentation may properly be proved by introduction in evidence of a notice of protest of the check, or of a certificate under oath of an authorized representative of the drawee declaring the dishonor and insufficiency, and such proof shall constitute presumptive evidence of such dishonor and insufficiency.

#### **626 ISSUING A BAD CHECK; DEFENSES**

In any prosecution for issuing a bad check, it is an affirmative defense that:

1. The defendant or a person acting in his behalf made full satisfaction of the amount of the check within ten days after dishonor by the drawee; or
2. The defendant, in acting as a representative drawer, did so as an employee who, without personal benefit, merely executed the orders of his employer or of a superior officer or employee generally authorized to direct his activities.

#### **627 FALSE ADVERTISING**

A person is guilty of false advertising when, with intent to promote the sale or to increase the consumption of property or services, he makes or causes to be made a false or misleading statement in any advertisement or publishes any advertisement in violation of code three of the act of congress entitled "Truth in Lending Act" and the regulations thereunder, as such act and regulations may from time to time be amended; addressed to the public or to a substantial number of persons; except that, in any prosecution under this section, it is an affirmative defense that the allegedly false or misleading statement was not knowingly or recklessly made or caused to be made.

False advertising is a class A misdemeanor.

#### **628 CRIMINAL IMPERSONATION IN THE SECOND DEGREE**

A Native American is guilty of criminal impersonation in the second degree when he:

1. Impersonates another and does an act in such assumed character with intent to obtain a benefit or to injure or defraud another; or
2. Pretends to be a representative of some person or organization and does an act in such pretended capacity with intent to obtain a benefit or to injure or defraud another; or
3. (a) Pretends to be a public servant, or wears or displays without authority any uniform, badge, insignia or facsimile thereof by which such public servant is lawfully distinguished, or falsely expresses by his words or actions that he is a public servant or is acting with approval or authority of a public agency or department; and (b) so acts with intent to induce another to submit to such pretended official authority, to solicit funds or to otherwise cause another to act in reliance upon that pretense.

Criminal impersonation in the second degree is a class A misdemeanor.

#### **629 CRIMINAL IMPERSONATION IN THE FIRST DEGREE**

A Native American is guilty of criminal impersonation in the first degree when he:

1. Pretends to be a police officer, or wears or displays without authority, any uniform, badge or other insignia or facsimile thereof, by which such police officer is lawfully distinguished or expresses by his words or actions that he is acting with the approval or authority of any police department; and
2. So acts with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon said pretense and in the course of such pretense commits or attempts to commit a felony.

Criminal impersonation in the first degree is a class E felony.

#### **630 UNLAWFULLY CONCEALING A WILL**

A Native American is guilty of unlawfully concealing a will when, with intent to defraud, he conceals, secretes, suppresses, mutilates or destroys a will, codicil or other testamentary instrument.

Unlawfully concealing a will is a class E felony.

#### **631 CRIMINAL USURY IN THE SECOND DEGREE**

A Native American is guilty of criminal usury in the second degree when, not being authorized or permitted by law to do so, he knowingly charges, takes or receives any money or other property as interest on the loan or forbearance of any money or other property, at a rate exceeding twenty-five per cent per annum or the equivalent rate for a longer or shorter period.

Criminal usury in the second degree is a class E felony.

**632 CRIMINAL USURY IN THE FIRST DEGREE**

A Native American is guilty of criminal usury in the first degree when, not being authorized or permitted by law to do so, he knowingly charges, takes or receives any money or other property as interest on the loan or forbearance of any money or other property, at a rate exceeding twenty-five per cent per annum or the equivalent rate for a longer or shorter period and either the actor had previously been convicted of the crime of criminal usury or of the attempt to commit such crime, or the actor's conduct was part of a scheme or business of making or collecting usurious loans.

Criminal usury in the first degree is a class C felony.

**633 POSSESSION OF USURIOUS LOAN RECORDS**

A Native American is guilty of possession of usurious loan records when, with knowledge of the contents thereof, he possesses any writing, paper, instrument or article used to record criminally usurious transactions prohibited by section 631.

Possession of usurious loan records is a class A misdemeanor.

**634 UNLAWFUL COLLECTION PRACTICES**

A Native American is guilty of unlawful collection practices when, with intent to enforce a claim or judgment for money or property, he knowingly sends, mails or delivers to another person a notice, document or other instrument which has no judicial or official sanction and which in its format or appearance, simulates a summons, complaint, court order or process, or an insignia, seal or printed form of a federal, state or local government or an instrumentality thereof, or is otherwise calculated to induce a belief that such notice, document or instrument has a judicial or official sanction.

Unlawful collection practices is a class B misdemeanor.

**635 SCHEME TO DEFRAUD IN THE FIRST DEGREE**

A Native American is guilty of making a false statement of credit terms when he knowingly and willfully violates the provisions of code two of the act of congress entitled "Truth in Lending Act" and the regulations thereunder, as such act and regulations may from time to time be amended, by understating or failing to state the interest rate required to be disclosed, or by failing to make or by making a false or inaccurate or incomplete statement of other credit terms in violation of such act.

Making a false statement of credit terms is a class A misdemeanor.

**636 SCHEME TO DEFRAUD IN THE SECOND DEGREE**

1. A Native American is guilty of a scheme to defraud in the second degree when he (a) engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person or to obtain property from more than one person by false or fraudulent pretenses, representations or promises, and so obtains property from one or more of such persons; or (b) engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person or to obtain an existing, canceled or revoked access device from more than one person by false or fraudulent pretenses, representations or promises and so obtains an existing, canceled or revoked access device from one or more of such persons. For purposes of this subdivision access device means any telephone calling card number, credit card number, account number or personal identification number that can be used to obtain telephone service.
2. In any prosecution under this section, it shall be necessary to prove the identity of at least one person from whom the defendant so obtained property, but it shall not be necessary to prove the identity of any other intended victim.

Scheme to defraud in the second degree is a class A misdemeanor.

**637 SCHEME TO DEFRAUD IN THE FIRST DEGREE**

1. A Native American is guilty of a scheme to defraud in the first degree when he: (a) engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud ten or more persons or to obtain property from ten or more persons by false or fraudulent pretenses, representations or promises, and so obtains property from one or more of such persons; or (b) engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person or to obtain property from more than one person by false or fraudulent pretenses, representations or promises, and so obtains property with a value in excess of one thousand dollars from one or more such persons.
2. In any prosecution under this section, it shall be necessary to prove the identity of at least one person from whom the defendant so obtained property, but it shall not be necessary to prove the identity of any other intended victim.

Scheme to defraud in the first degree is a class E felony.

**638 SCHEME TO DEFRAUD THE STATE BY UNLAWFULLY SELLING PRESCRIPTIONS**

A Native American is guilty of a scheme to defraud the state by unlawfully selling prescriptions when he or she engages, with intent to defraud the state, in a scheme constituting a systematic, ongoing course of conduct to make, sell, deliver for sale or offer for sale one or more prescriptions and so obtains goods or services from the state with a value in excess of one thousand dollars or causes the state to reimburse another in excess of one thousand dollars for the delivery of such goods or services.

Scheme to defraud the state by unlawfully selling prescriptions is a class A misdemeanor.