

HOUSE No. 1511

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the crime of identity fraud..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 37E of Chapter 266 of the General Laws is hereby amended in
2 subsection (a) within the definition of “Personal identifying information” by: (i) striking the
3 word “individual” and inserting in place thereof, the word “person” and (ii) inserting after the
4 words “password identification”, as appearing at the end of the subparagraph, the following
5 words: “or tax identification number, or other bank or financial institution issued financial
6 account number or distinctive password identification code”.

7 SECTION 2. Section 37E of Chapter 266 of the General Laws, as appearing in the
8 2002 Official Edition, is hereby amended in subsection (a), by inserting after the definition of

9 “Personal identifying information” the following definition: “Person’ includes an
10 individual whether living or deceased, association, organization, corporation or other business
11 entity.”.

12 SECTION 3. Section 37E of Chapter 266 of the General Laws, as appearing in the
13 2002 Official Edition, is hereby amended as follows by inserting after subsection (c), the
14 following subsections:—

15 (d) Whoever attempts to solicit, obtain or obtains from another person the
16 personal identifying information of such person, by false pretense or by willfully making a
17 materially false, fictitious or deceptive statement or communication, whether by oral, written,
18 electronic mail, internet site or any other means, with the intent to:

19 (i) pose as such person in order to defraud any person, by fraudulently
20 obtaining money, credit, goods, services or anything of value, or

21 (ii) use the personal identifying information of such person to obtain, forge, or
22 cause to be made, any unlawful, fraudulent or false: bank or financial institution issued credit
23 card, charge card, bank card or financial instrument or any government or quasi-government
24 issued identification card, license, passport, birth certificate or permit document.

25 shall be guilty of the crime of identity fraud and shall be punished as
26 follows:

27 (1) for a violation involving subsection (d)(i): if the offense is a first
28 offense and the value of the item obtained or attempted to be obtained is no more than two
29 hundred and fifty dollars, by a fine of not more than \$1,000, or by imprisonment in the house of
30 correction for not more than 2 ½ years, or by both such fine and imprisonment; or if the offense
31 is a second or subsequent offense or the value of the item obtained or attempted to be obtained is
32 more than two hundred and fifty dollars, by a fine of not more than \$5,000, or by imprisonment

33 in the state prison for not more than 5 years, or in the house of correction for not more than 2 ½
34 years, or by both such fine and imprisonment; and

35 (2) for a violation involving subsection (d)(ii) by a fine of not more than
36 \$5,000, or by imprisonment in the state prison for not more than 5 years, or in the house of
37 correction for not more than 2 ½ years, or by both such fine and imprisonment.

38 A person who knowingly aids or abets another person to commit or
39 attempt to commit the offense of identity fraud prohibited by this subsection shall be guilty of,
40 and shall be subject to the punishment for, identity fraud provided under this subsection.

41 (e) A prosecution under this section may be commence and disposed of, in
42 either the Superior Court or District Court. A prosecution in the Superior Court may be
43 commenced in the county in which the conduct in violation of this section occurred in the
44 commonwealth, or in the county where the victim or defendant resides, or has a principal place
45 of business within the commonwealth. A prosecution commenced in the District Court may be
46 commenced in the judicial district in which the conduct in violation of this section occurred
47 within the commonwealth, or in the judicial district where the victim or defendant resides or has
48 a principal place of business within the commonwealth.

49 SECTION 4. Section 37E of Chapter 266 of the General Laws, as appearing in the
50 2002 Official Edition, is hereby amended by striking the current subsection heading “(d)” and
51 inserting a new subsection heading “(f)”.

52 SECTION 5. Section 37E of Chapter 266 of the General Laws, as appearing in the
53 2002 Official Edition, is hereby amended by striking the current subsection heading “(e)” and
54 inserting a new subsection heading “(g)”.

55 SECTION 6. Section 37E of Chapter 266 of the General Laws, as appearing in the
56 2002 Official Edition, is hereby amended by inserting after current subsection (e), which heading
57 is to be amended to subsection “(g)” by Section 5, the following subsection:—

58 (h) A law enforcement officer when acting within the scope of the
59 officer’s lawful authority shall not be subject to the prohibitions of subsections (b), (c) or (d).