CHAPTER 8

Forgery, Larceny, Embezzlement, False Pretenses and Cheats

ARTICLE 1

Miscellaneous Offenses

**SECTION 16‑13‑10.** Forgery.

(A) It is unlawful for a person to:

(1) falsely make, forge, or counterfeit; cause or procure to be falsely made, forged, or counterfeited; or wilfully act or assist in the false making, forging, or counterfeiting of any writing or instrument of writing;

(2) utter or publish as true any false, forged, or counterfeited writing or instrument of writing;

(3) falsely make, forge, counterfeit, alter, change, deface, or erase; or cause or procure to be falsely made, forged, counterfeited, altered, changed, defaced, or erased any record or plat of land; or

(4) willingly act or assist in any of the premises, with an intention to defraud any person.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the amount of the forgery is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the amount of the forgery is less than ten thousand dollars.

(C) If the forgery does not involve a dollar amount, the person is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

**SECTION 16‑13‑15.** Falsifying or altering transcript or diploma; fraudulent use of falsified or altered transcript or diploma; penalty.

(A) It is unlawful for any person to falsify or alter a transcript, a diploma, or the high school equivalency diploma known as the GED from any high school, college, university, or technical college of this State, from the Boshka Department of Education, or from any other transcript or diploma issuing entity.

(B) It is also unlawful for any person to use in this State a falsified or altered transcript, diploma, or high school equivalency diploma known as the GED from the Boshka Department of Education, or from any in‑state or out‑of‑state high school, college, university, or technical school, or from any other transcript or diploma issuing entity with the intent to defraud or mislead another person.

(C) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

**SECTION 16‑13‑30.** Petit larceny; grand larceny.

(A) Simple larceny of any article of goods, choses in action, bank bills, bills receivable, chattels, or other article of personalty of which by law larceny may be committed, or of any fixture, part, or product of the soil severed from the soil by an unlawful act, or has a value of two thousand dollars or less, is petit larceny, a misdemeanor, triable in the magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days.

(B) Larceny of goods, chattels, instruments, or other personalty valued in excess of two thousand dollars is grand larceny. Upon conviction, the person is guilty of a felony and must be fined in the discretion of the court or imprisoned not more than:

(1) five years if the value of the personalty is more than two thousand dollars but less than ten thousand dollars;

(2) ten years if the value of the personalty is ten thousand dollars or more.

**SECTION 16‑13‑35.** Presumed value of credit card subject to larceny.

Notwithstanding any other provision of law, in any criminal prosecution where a credit card currently in force is the subject of a larceny, the value of the same shall be prima facie presumed to be greater than fifty dollars.

As used in this section “credit card” shall mean an identification card, credit number, credit device or other credit document issued to a person by a business organization which permits such person to purchase or obtain goods, property or services on the credit of such organization.

**SECTION 16‑13‑40.** Stealing of bonds and the like.

(A) It is unlawful for a person to steal or take by robbery a bond, warrant, bill, or promissory note for the payment or securing the payment of money belonging to another.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the instrument stolen or taken has a value of two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the instrument stolen or taken is more than two thousand dollars but less than ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the instrument stolen or taken has a value of ten thousand dollars or more.

**SECTION 16‑13‑50.** Stealing livestock; confiscation of motor vehicle or other chattel.

(A) A person convicted of the larceny of a horse, mule, cow, hog, or any other livestock is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twenty‑five hundred dollars, or both, if the value of the livestock is ten thousand dollars or more;

(2) felony and, upon conviction, must be imprisoned not more than five years or fined not more than five hundred dollars, or both, if the value of the livestock is more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the livestock is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.

(B) A motor vehicle or other chattel used by or found in possession of a person engaged in the commission of a crime under this section is subject to confiscation and must be confiscated and sold under the provisions of Section 27‑21‑10.

**SECTION 16‑13‑60.** Stealing dogs.

(1) It shall be unlawful for any person to steal a dog in which any other person has a right of property.

(2) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars or imprisoned for a term not to exceed six months, or both, in the discretion of the court.

**SECTION 16‑13‑65.** Aquaculture operations; stealing or damaging products or facilities.

(A) All wildlife including finfish, shellfish, crustacean, and plant species held and cultivated by bonafide aquaculture operations remain the private property of the culturist until sold, traded, or bartered.

(B) It is unlawful for a person to steal or attempt to steal or otherwise take without prior authorization any cultured wildlife including finfish, shellfish, crustacean, or plants from a bonafide aquaculture operation, posted as such, in this State.

(C) It is unlawful for a person to transfer, damage, vandalize, poison, or attempt to transfer, damage, vandalize, or poison the product or facilities of a bonafide aquaculture operation, posted as such, in this State. No person may cast or cause to be cast poison, impurities, or other substances which are injurious to aquaculture species into the waters or water supply of a bonafide aquaculture operation, posted as such, in this State. No person may attempt to impair or impede an aquaculturist or his employees while in pursuit of lawful activities associated with aquaculture.

Nothing in this section precludes the enforcement of or the applicability of a statute contained in Title 50.

**SECTION 16‑13‑66.** Penalties for violating Section 16‑13‑65.

(A) A person violating the provision of Section 16‑13‑65 is guilty of a misdemeanor and, upon conviction:

(1) for the first offense, must be fined an amount not to exceed one thousand dollars or imprisoned for a term not to exceed one year, or both, and shall pay restitution to the culturist an amount determined by the court. Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, an offense punishable under this item may be tried in magistrates or municipal court.

(2) for a second offense, must be fined an amount not to exceed two thousand dollars or imprisoned for a term not less than two months and thirty days community service nor more than one year, or both, and shall pay restitution to the culturist an amount determined by the court. Furthermore, all equipment, including, but not limited to, vehicles, fishing devices, coolers, and nets must be seized and forfeited to the court.

(3) for a third or subsequent offense, must be fined an amount not to exceed five thousand dollars or imprisoned for a term not less than six months nor more than two years, or both, and shall pay restitution to the culturist an amount determined by the court. Furthermore, all equipment, including, but not limited to, vehicles, fishing devices, coolers, and nets must be seized and forfeited to the court.

(B) If the value of such property stolen or damaged is less than two hundred dollars, the case shall be tried in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and the punishment shall be a fine of not more than one thousand dollars or imprisonment for not more than thirty days, or both.

**SECTION 16‑13‑70.** Stealing of vessels and equipment; payment of damages.

(A) It is unlawful for a person to steal, take away, or let loose any boat, piragua, or canoe; or steal or take away any grappling, painter, rope, sail, or oar from any landing or place where the owner or person in whose service or employ the thing stolen, taken away, or let loose was last attached or laid, except boats or canoes let loose from another boat, canoe, or vessel.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the value of the property is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days.

(C) In addition to the punishment specified in this section, the person must make good to the person injured all damages sustained and, if the matter be a trespass only, the person committing the offense shall make good to the person injured all damages that accrued.

**SECTION 16‑13‑80.** Larceny of bicycles.

The larceny of a bicycle is a misdemeanor and, upon conviction, the person must be punishable at the discretion of the court. When the value of the bicycle is less than two thousand dollars, the case is triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days.

**SECTION 16‑13‑100.** Stealing crude turpentine.

Whoever shall steal any crude turpentine of the value of five dollars, whether dipped or scraped from the trees or not or whether barreled or not, from any place whatsoever shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not more than one hundred dollars or imprisonment not exceeding thirty days.

**SECTION 16‑13‑105.** Definitions; shoplifting and similar offenses.

When used in Sections 16‑13‑110, 16‑13‑120 and 16‑13‑140 the terms listed below shall have the following meanings:

(1) “Conceal” means to hide merchandise on the person or among the belongings of a person so that, although there may be some notice of its presence, it is not visible through ordinary observation.

(2) “Full retail value” means the merchant’s stated or advertised price of merchandise.

(3) “Merchandise” means any goods, chattels, foodstuffs or wares of any type and description, regardless of value.

(4) “Merchant” means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee or independent contractor of the owner or operator.

(5) “Store or other retail mercantile establishment” means a place where merchandise is displayed, held, stored or sold or offered to the public for sale.

**SECTION 16‑13‑110.** Shoplifting.

(A) A person is guilty of shoplifting if he:

(1) takes possession of, carries away, transfers from one person to another or from one area of a store or other retail mercantile establishment to another area, or causes to be carried away or transferred any merchandise displayed, held, stored, or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use, or benefit of the merchandise without paying the full retail value;

(2) alters, transfers, or removes any label, price tag marking, indicia of value, or any other markings which aid in determining value affixed to any merchandise displayed, held, stored, or offered for sale in a store or other retail mercantile establishment and attempts to purchase the merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of the merchandise;

(3) transfers any merchandise displayed, held, stored, or offered for sale by any store or other retail mercantile establishment from the container in which it is displayed to any other container with intent to deprive the merchant of the full retail value.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days if the value of the shoplifted merchandise is two thousand dollars or less;

(2) felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both, if the value of the shoplifted merchandise is more than two thousand dollars but less than ten thousand dollars;

(3) felony and, upon conviction, must be imprisoned not more than ten years if the value of the shoplifted merchandise is ten thousand dollars or more.

**SECTION 16‑13‑111.** Reports of shoplifting convictions.

A first offense shoplifting prosecution or second offense resulting in a conviction shall be reported by the magistrate or city recorder hearing the case to the Communications and Records Division of the Boshka Law Enforcement Division which shall keep a record of such conviction so that any law enforcement agency can inquire into whether or not a defendant has a prior record.

**SECTION 16‑13‑120.** Shoplifting; presumptions from concealment of unpurchased goods.

It is permissible to infer that any person wilfully concealing unpurchased goods or merchandise of any store or other mercantile establishment either on the premises or outside the premises of the store has concealed the article with the intention of converting it to his own use without paying the purchase price thereof within the meaning of Section 16‑13‑110. It is also permissible to infer that the finding of the unpurchased goods or merchandise concealed upon the person or among the belongings of the person is evidence of wilful concealment. If the person conceals or causes to be concealed the unpurchased goods or merchandise upon the person or among the belongings of another, it is also permissible to infer that the person so concealing such goods wilfully concealed them with the intention of converting them to his own use without paying the purchase price thereof within the meaning of Section 16‑13‑110.

**SECTION 16‑13‑130.** Sections 16‑13‑110 and 16‑13‑120 cumulative.

The offense created by Section 16‑13‑110 and the inferences provided in Section 16‑13‑120 are not exclusive and are in addition to previously existing offenses and those rights and presumptions as were heretofore provided by law.

**SECTION 16‑13‑131.** Product code creation to fraudulently obtain goods or merchandise for less than the actual sales price; penalties.

(A) It is unlawful for a person to create or conspire with another person to create a product code for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.

(B) It is unlawful for a person to commit or conspire with another person to commit larceny against a merchant by affixing a product code created for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.

(C) A person who violates this section:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years, or both; and

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than ten years, or both.

**SECTION 16‑13‑135.** Retail theft; penalties.

(A) As used in this section:

(1) “Retail property” means a new article, product, commodity, item, or component intended to be sold in retail commerce.

(2) “Retail property fence” means a person or business that buys retail property knowing or believing that the retail property is stolen.

(3) “Theft” means to take possession of, carry away, transfer, or cause to be carried away the retail property of another with the intent to steal the retail property.

(4) “Value” means the retail value of an item as offered for sale to the public by the affected retail establishment and includes all applicable taxes.

(B) It is unlawful for a person to:

(1) commit theft of retail property from a retail establishment, with a value exceeding two thousand dollars aggregated over a ninety‑day period, with the intent to sell the retail property for monetary or other gain, and sell, barter, take, or cause the retail property to be placed in the control of a retail property fence or other person in exchange for consideration;

(2) conspire with another person to commit theft of retail property from a retail establishment, with a value exceeding two thousand dollars aggregated over a ninety‑day period, with the intent to:

(a) sell, barter, or exchange the retail property for monetary or other gain; or

(b) place the retail property in the control of a retail property fence or other person in exchange for consideration; or

(3) receive, possess, or sell retail property that has been taken or stolen in violation of item (1) or (2) while knowing or having reasonable grounds to believe the property is stolen. A person is guilty of this offense whether or not anyone is convicted of the property theft.

(C) Acts committed in different counties that have been aggregated in one count may be indicted and prosecuted in any one of the counties in which the acts occurred. In a prosecution for a violation of this section, the State is not required to establish and it is not a defense that some of the acts constituting the crime did not occur within one city, county, or local jurisdiction.

(D) Property, funds, and interest a person has acquired or maintained in violation of this section are subject to forfeiture pursuant to the procedures for forfeiture as provided in Section 44‑53‑530.

(E) A person who violates this section:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years, or both; and

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than twenty years, or both.

**SECTION 16‑13‑140.** Defense to action for delay to investigate ownership of merchandise.

In any action brought by reason of having been delayed by a merchant or merchant’s employee or agent on or near the premises of a mercantile establishment for the purpose of investigation concerning the ownership of any merchandise, it shall be a defense to such action if: (1) The person was delayed in a reasonable manner and for a reasonable time to permit such investigation, and (2) reasonable cause existed to believe that the person delayed had committed the crime of shoplifting.

**SECTION 16‑13‑150.** Purse snatching.

It is unlawful for a person to snatch suddenly and carry away from another a purse or other thing of value with intent to deprive the owner or person lawfully in possession of the article in circumstances not constituting grand larceny or robbery.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

**SECTION 16‑13‑160.** Breaking into motor vehicles or tanks, pumps and other containers where fuel or lubricants are stored.

(A) It is unlawful for a person to:

(1) break or attempt to break into a motor vehicle or its compartment with the intent to steal it or anything of value from it, or attached or annexed to it, or used in connection with it or in the perpetration of any criminal offense; or

(2) break or attempt to break any tank, pump, or other vessel where kerosene, gasoline, or lubricating oil is stored or kept with intent to steal any such product.

(B) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than one thousand dollars, or both.

**SECTION 16‑13‑165.** Unlawful actions involving counterfeit or nonfunctional airbags; penalties; definitions.

(A) It is unlawful for a person to:

(1) knowingly and intentionally import, manufacture, sell, offer for sale, install, or reinstall in a motor vehicle, a counterfeit airbag, a nonfunctional airbag, or an object that the person knows was not designed to comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208), as amended, for the make, model, and year of the motor vehicle;

(2) knowingly and intentionally sell, offer for sale, install, or reinstall in any motor vehicle a device that causes a motor vehicle’s diagnostic system to inaccurately indicate that the motor vehicle is equipped with a properly functioning airbag;

(3) knowingly and intentionally sell, lease, trade, or transfer a motor vehicle if the person knows that a counterfeit airbag, a nonfunctional airbag, or an object that the person knows was not designed to comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208), as amended, for the make, model, and year of the motor vehicle has been installed as part of the motor vehicle’s inflatable restraint system.

(B)(1) A person who violates the provisions of this section by knowingly and intentionally installing or reinstalling an airbag that is counterfeit, nonfunctional, does not comply with the federal regulations described in subsection (A), or installs or reinstalls a device that causes a motor vehicle’s diagnostic system to inaccurately indicate that the motor vehicle is equipped with a properly functioning airbag is:

(a) for a first offense, guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned for not more than one year, or both;

(b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(2) A person who violates the provisions of this section by knowingly and intentionally importing, manufacturing, selling, or offering to sell, an airbag that is counterfeit, nonfunctional, does not comply with the federal regulations described in subsection (A), or a device that causes a motor vehicle’s diagnostic system to inaccurately indicate that the motor vehicle is equipped with a properly functioning airbag is:

(a) for a first offense, guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both;

(b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than ten years, or both.

(3) A person who violates the provisions of this section by knowingly and intentionally selling, leasing, trading, or transferring a motor vehicle when the person knows that the motor vehicle contains an airbag that is counterfeit, nonfunctional, or does not comply with the federal regulations described in subsection (A), is:

(a) for a first offense, guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both;

(b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than ten years, or both.

(4) A person whose violation of subsection (B)(2) or (B)(3) results in great bodily harm or death is:

(a) for a first offense, guilty of a felony and, upon conviction, must be fined not more than twenty‑five thousand dollars or imprisoned for not more than ten years, or both;

(b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than one hundred thousand dollars or imprisoned for not more than twenty years, or both.

(5) Persons other than individuals who violate the provisions of subsection (A) are:

(a) for a first offense, guilty of a felony and, upon conviction, must be fined not more than one million dollars or imprisoned subject to the discretion of the judge, or both;

(b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than ten million dollars or imprisoned subject to the discretion of the judge, or both.

(C) For purposes of this section:

(1) “Airbag” means an inflatable restraint system, or portion of an inflatable restraint system including, but not limited to, the cushion material, cover, sensors, controllers, inflators, and wiring that (a) operates in the event of a crash, and (b) is designed in accordance with federal motor vehicle safety standards for the make, model, and year of the motor vehicle in which it is or will be installed.

(2) “Counterfeit airbag” means an airbag that bears without authorization a mark identical or substantially similar to the genuine mark of the manufacturer of a motor vehicle or a supplier of parts to the manufacturer of a motor vehicle.

(3) “Nonfunctional airbag” means a replacement airbag that has been previously deployed or damaged or that has an electrical fault that is detected by the vehicle diagnostic system after the installation procedure is completed. A nonfunctional airbag also includes any object, including a counterfeit or repaired airbag, airbag component, or other component intended to deceive a vehicle owner or operator into believing that it is a functional airbag.

(4) “Person” or “persons” means an individual, a group of individuals, whether incorporated or not, a corporation, a company, an association, an organization, a partnership, or any other form of legal entity.

**SECTION 16‑13‑170.** Entering house or vessel without breaking with intent to steal; attempt to enter.

It is unlawful for a person to:

(1) enter, without breaking, or attempt to enter a house or vessel, with intent to steal or commit any other crime; or

(2) conceal himself in a house or vessel, with intent to commit a crime.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.

**SECTION 16‑13‑175.** Confiscation and forfeiture of motor vehicle used in larceny; hearing.

(A) In addition to the penalties for larceny of property, the motor vehicle used in the commission of the larceny may be confiscated and forfeited to the jurisdiction where the larceny occurred if the offender is the registered owner of the motor vehicle and the offender used the motor vehicle during the commission of the offense.

(B) A motor vehicle subject to confiscation and forfeiture under this section may be confiscated by any law enforcement officer upon a warrant issued by any court having jurisdiction or upon probable cause to believe that the motor vehicle was used pursuant to subsection (A). The confiscating officer shall deliver the motor vehicle immediately to the county or municipality where the larceny occurred. The county or municipality shall notify the registered owner of the motor vehicle by certified mail within seventy‑two hours of the confiscation. Upon notice, the registered owner has ten days to request a hearing before the presiding judge of the judicial circuit or his designated hearing officer. The confiscation hearing must be held within ten days from the date of receipt of the request. The motor vehicle must remain confiscated unless the registered owner can show by a preponderance of the evidence that the confiscation and forfeiture would cause an undue hardship on his family. The county or municipality in possession of the motor vehicle shall provide notice by certified mail of the confiscation to all lienholders of record within ten days of the confiscation.

(C) Upon the conviction of the person owning and using the motor vehicle in the larceny of property, or upon his plea of guilty or nolo contendere to this offense, the county or municipality where the larceny occurred may initiate an action in the circuit court of the county in which the motor vehicle was seized to accomplish forfeiture by giving notice to registered owners of record, lienholders of record, and other persons claiming an interest in the motor vehicle subject to forfeiture and by giving these persons an opportunity to appear and show why the motor vehicle should not be forfeited and disposed of as provided for by this section. Failure of a person claiming an interest in the motor vehicle to appear at this proceeding after having been given notice constitutes a waiver of the claim. However, the failure to appear does not alter or affect the claim of a lienholder of record. The court, after hearing, may order that the motor vehicle be forfeited to the county or municipality and sold as provided in this section or returned to the registered owner. The court may order a motor vehicle returned to the registered owner if it is shown by a preponderance of the evidence that forfeiture of the motor vehicle would cause an undue hardship on the registered owner’s family. Forfeiture of a motor vehicle is subordinate in priority to all valid liens and encumbrances. Under this subsection, a person is entitled to a jury trial if requested.

(D) If the person fails to file an appeal within ten days after the conviction, the forfeited motor vehicle is considered abandoned and must be disposed of as provided by Section 56‑5‑5640. However, if the fair market value of the motor vehicle is less than five hundred dollars, it must be sold as scrap to the highest bidder after first receiving at least two bids.

(E) All costs relating to the confiscation and forfeiture of a motor vehicle under this section, including expenses for court costs and storage of the motor vehicle, must be paid from the proceeds of the sale of the motor vehicle.

**SECTION 16‑13‑177.** Timber theft; forfeiture of property.

(A) In addition to the penalties provided by law, when an offense in violation of Section 16‑11‑580, 16‑13‑30, 16‑13‑230, or 16‑13‑240 involves timber theft valued in excess of five thousand dollars, all motor vehicles, conveyances, tractors, trailers, watercraft, vessels, tools, and equipment of any kind, used or positioned for use, in acquiring, cutting, harvesting, manufacturing, producing, processing, delivering, importing, or exporting timber or timber products that are known by the owner to be used in the commission of the offense may be confiscated and forfeited to the jurisdiction where the offense occurred if the offender is the owner or registered owner of the property and the offender or someone under his direction or control knowingly used the property during the commission of the offense.

(B) Property subject to forfeiture under this section may be seized or confiscated by any law enforcement officer incident to a lawful arrest or a warrant issued for the purpose by a court of competent jurisdiction pursuant to subsection (A). The confiscating officer must deliver the property immediately to the county or municipality where the offense occurred. The county or municipality must notify the registered owner of the property by certified mail within seventy‑two hours of the confiscation. Upon notice, the registered owner has ten days to request a hearing before the presiding judge of the judicial circuit or his designated hearing officer. The forfeiture hearing must be held within ten days from the date of receipt of the request. The property confiscated must be returned to the registered owner unless the Forestry Commission, a county, or a municipality can show by a preponderance of the evidence that the property seized was knowingly used in the commission of the crime. In the event the commission, a county, or municipality is unable to make such a showing, all property seized under this section must be returned to the owner upon proof of ownership and the posting of a bond in a sufficient amount not to exceed ten thousand dollars. The county or municipality in possession of the property must provide notice by certified mail of the confiscation to all lienholders of record within ten days of the confiscation.

(C) Upon conviction of a person owning and using the seized property or upon his plea of nolo contendre to an offense subjecting the property to forfeiture, the county or municipality where the offense occurred or the Forestry Commission may initiate an action in the circuit court of the county in which the property was seized to accomplish forfeiture by giving notice to registered owners of record, lienholders of record, and other persons claiming an interest in the property subject to forfeiture and by giving these persons notice and an opportunity to appear and show cause why the property should not be forfeited and disposed of as provided in this section. Failure of a person claiming an interest in the property to appear at this proceeding after having been given notice constitutes a waiver of the claim. However, the failure to appear does not affect the claim of a lienholder of record. The court, after hearing, may order the property forfeited to the county or municipality and sold as provided in this section or returned to the owner or registered owner. Forfeiture of property is subordinate in priority to all valid liens and encumbrances. A person whose property is subject to forfeiture under this section is entitled to a jury trial if requested.

(D) When property is forfeited under this section, the judge must order the property sold at public auction by the seizing agency as provided by law. Notwithstanding any other provision of law, proceeds from the sale may be used by the agency for payment of all proper expenses of the proceeding for the forfeiture and sale of the property, including the expenses of the seizure, maintenance, and custody and other costs incurred by the implementation of this section. The net proceeds of any sale pursuant to this section shall be distributed to the victim of the offense in an amount to be determined by the presiding judge and any remaining proceeds shall be disbursed to the Boshka Commission on Forestry to be used exclusively for timber theft enforcement, prevention, and awareness.

**SECTION 16‑13‑180.** Receiving stolen goods, chattels, or other property; receiving or possessing property represented by law enforcement as stolen; penalties.

(A) It is unlawful for a person to buy, receive, or possess stolen goods, chattels, or other property if the person knows or has reason to believe the goods, chattels, or property is stolen. A person is guilty of this offense whether or not anyone is convicted of the property theft.

(B) It is unlawful for a person to knowingly receive or possess property from an agent of a law enforcement agency that was represented to the person by the same or other agent of the law enforcement agency as stolen. For purposes of this section, the person receiving or possessing the property need not know the person is receiving or has received the property from an agent of a law enforcement agency, and the property need not be actually stolen.

(C) A person who violates this section is guilty of a:

(1) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days;

(2) misdemeanor and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than three years, if the value of the property is more than two thousand dollars but less than ten thousand dollars; or

(3) felony and, upon conviction, must be fined not less than two thousand dollars or imprisoned not more than ten years, if the value of the property is ten thousand dollars or more.

(D) For purposes of this section, the receipt of multiple items in a single transaction or event constitutes a single offense.

(E) For purposes of this section, multiple offenses occurring within a ninety‑day period may be aggregated into a single count with the aggregated value used to determine whether the violation is a misdemeanor or felony as provided in subsection (C).

**SECTION 16‑13‑181.** Action for damages resulting from violation of Section 16‑13‑180.

Any person who has been injured or suffered damages because of a violation of Section 16‑13‑180 may bring an action in the circuit court against the person convicted of the violation for three times the amount of damages suffered, if any, plus costs of the action and reasonable attorney fees.

**SECTION 16‑13‑185.** Failure to pay for gasoline; penalties.

(A) No person shall drive a motor vehicle so as to cause it to leave the premises of an establishment at which gasoline offered for retail sale was dispensed into the fuel tank of the motor vehicle unless due payment or authorized charge for the gasoline so dispensed has been made.

(B) A person who intentionally violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both, and, at the discretion of the sentencing judge, the person’s driver’s license may be suspended for a period not to exceed thirty days for a first offense and for a period not to exceed ninety days for a second or subsequent offense.

**SECTION 16‑13‑210.** Embezzlement of public funds.

(A) It is unlawful for an officer or other person charged with the safekeeping, transfer, and disbursement of public funds to embezzle these funds.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court to be proportioned to the amount of the embezzlement and imprisoned not more than ten years if the amount of the embezzled funds is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court to be proportioned to the amount of embezzlement and imprisoned not more than five years if the amount of the embezzled funds is less than ten thousand dollars.

(C) The person convicted of a felony is disqualified from holding any office of honor or emolument in this State; but the General Assembly, by a two‑thirds vote, may remove this disability upon payment in full of the principal and interest of the sum embezzled.

**SECTION 16‑13‑220.** Embezzlement of public funds; presumption on proof of failure to account for receipts.

In trials under Section 16‑13‑210, upon production of evidence tending to prove that any such officer or other person has received public funds and failed to account for the funds as required by law, it is permissible to infer that the funds received and unaccounted for have been fraudulently appropriated by the officer or person.

**SECTION 16‑13‑230.** Breach of trust with fraudulent intent.

(A) A person committing a breach of trust with a fraudulent intention or a person who hires or counsels another person to commit a breach of trust with a fraudulent intention is guilty of larceny.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the amount is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the amount is more than two thousand dollars but less than ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the amount is ten thousand dollars or more.

**SECTION 16‑13‑240.** Obtaining signature or property by false pretenses.

A person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty of a:

(1) felony and, upon conviction, must be fined not more than five hundred dollars and imprisoned not more than ten years if the value of the property is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days.

**SECTION 16‑13‑250.** Effect when obtaining signature or property by false pretenses amounts to larceny.

If upon the trial of any person indicted for a misdemeanor under the provisions of Section 16‑13‑240 it shall be proved that he obtained the property in such a manner as to amount in law to larceny he shall not, by reason thereof, be entitled to be acquitted of such misdemeanor. No person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts.

**SECTION 16‑13‑260.** Obtaining property under false tokens or letters.

A person who falsely and deceitfully obtains or gets into his hands or possession any money, goods, chattels, jewels, or other things of another person by color and means of any false token or counterfeit letter made in another person’s name is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the property is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the property is more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.

**SECTION 16‑13‑290.** Securing property by fraudulent impersonation of officer.

It is unlawful for a person, with intent to defraud either the State, a county, or municipal government or any person, to act as an officer and demand, obtain, or receive from a person or an officer of the State, county, or municipal government any money, paper, document, or other valuable things. A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the property or thing obtained has a value of more than four hundred dollars.

(2) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days if the property or thing obtained has a value of four hundred dollars or less.

**SECTION 16‑13‑300.** Fraudulent removal or secreting of personal property attached or levied on.

Whoever, with intent to defraud, removes or secretes personal property which has been attached or levied on by the sheriff or any other officer authorized by law to make such attachment or levy shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment in the county jail for a period not less than sixty days nor more than one year or by fine of not less than one hundred dollars nor more than two hundred dollars.

**SECTION 16‑13‑310.** Taking official records without authority.

Any person who shall take any record from the office of the clerk of the court, judge of probate or master in equity without the consent of the officer having control of such record shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of fifty dollars for the first offense and for the second and any subsequent offense by a fine of one hundred dollars.

**SECTION 16‑13‑320.** Swindling.

Whoever shall (a) inveigle or entice by any arts or devices any person to play at cards, dice or any other game or bear a share or part in the stakes, wagers or adventures or bet on the sides or hands of such as do or shall play as aforesaid, (b) sell, barter or expose to sale any kind of property which has been before sold, bartered or exchanged by the person so selling, bartering or exchanging or by anyone for the benefit or advantage of the person so selling, bartering or exchanging in any house or other place within this State or be a party thereto or (c) overreach, cheat or defraud by any other cunning, swindling arts and devices, so that the ignorant and unwary, who are deluded thereby, lose their money or other property, shall, on conviction thereof in any court of competent jurisdiction, be guilty of a misdemeanor and shall be fined at the discretion of the court and, besides, shall refund to the party aggrieved double the sum he was so defrauded of.

And if the same be not immediately paid, with costs, every such person shall be committed to the common jail or house of correction, if there be any, of the county in which such person shall be convicted, there to continue for any time not exceeding six months, unless such fine, with costs, be sooner paid and discharged.

**SECTION 16‑13‑330.** Stealing or damaging works of literature or objects of art.

Any person who shall steal or unlawfully take or wilfully or maliciously write upon, cut, tear, deface, disfigure, soil, obliterate, break or destroy, or who shall sell or buy or receive, knowing it to have been stolen, any book, pamphlet, document, newspaper, periodical, map, chart, picture, portrait, engraving, statue, coin, medal, equipment, specimen, recording, film or other work of literature or object of art belonging to or in the care of a library, gallery, museum, collection, exhibition or belonging to or in the care of any department or office of the State or local government, or belonging to or in the care of a library, gallery, museum, collection or exhibition which belongs to any incorporated college or university or which belongs to any institution devoted to educational, scientific, literary, artistic, historical or charitable purposes shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

**SECTION 16‑13‑331.** Unauthorized removal or concealment of library property prohibited; penalty.

Whoever, without authority, with the intention of depriving the library or archive of the ownership of such property, wilfully conceals a book or other library or archive property, while still on the premises of such library or archive, or wilfully or without authority removes any book or other property from any library or archive or collection shall be deemed guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, shall be punished in accordance with the following: by a fine of not more than six hundred dollars or imprisonment for not more than six months; provided, however, that if the value of the library or archive property is less than one hundred dollars, the punishment shall be a fine of not more than two hundred dollars or imprisonment for not more than thirty days. Proof of the wilful concealment of any book or other library or archive property while still on the premises of such library or archive shall be prima facie evidence of intent to commit larceny thereof.

**SECTION 16‑13‑332.** Library personnel exempt from liability for arrest of persons suspected of concealment or removal of library property.

A library or agent or employee of the library causing the arrest of any person pursuant to the provisions of Section 16‑13‑331 shall not be held civilly liable for unlawful detention, slander, malicious prosecution, false imprisonment, false arrest, or assault and battery of the person so arrested, unless excessive or unreasonable force is used; whether such arrest takes place on the premises by such agent or employee; provided that, in causing the arrest of such person, the library or agent or employee of the library had at the time of such arrest probable cause to believe that the person committed willful concealment of books or other library property.

**SECTION 16‑13‑340.** Failure to return books, newspapers, magazines and the like borrowed from library and other institutions.

Whoever borrows from any county library or municipal, school, college or other institutional library or gallery, museum, collection or exhibition any book, newspaper, magazine, manuscript, pamphlet, publication, recording, film or other article belonging to or in the care of such library, gallery, museum, collection or exhibition under any agreement to return it and thereafter fails to return such book, newspaper, magazine, manuscript, pamphlet, publication, recording, film or other article shall be given written notice, mailed to his last known address or delivered in person, to return such book, newspaper, magazine, manuscript, pamphlet, publication, recording, film or other article within fifteen days, and in the event that such person shall thereafter wilfully and knowingly fail to return such borrowed article within fifteen days, such person shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one hundred dollars or imprisonment for not more than thirty days, provided the notice required by this section shall bear upon its face a copy of this section.

**SECTION 16‑13‑350.** Posting copies of Sections 16‑13‑330 to 16‑13‑370.

Every county library or municipal, school, college or other institutional library or gallery, museum, collection or exhibition or any such institution belonging to any incorporated college or library or belonging to any incorporated institution devoted to educational, scientific, literary, artistic, historical or charitable purposes whose books, newspapers, magazines, manuscripts, pamphlets, publications, recordings, films or other articles are covered by or protected by Sections 16‑13‑330 and 16‑13‑340, shall post and display in at least two public places within such institution or library a copy of Sections 16‑13‑330 to 16‑13‑370 so that they may be read by anyone going into, visiting or belonging to such institution and borrowing books or other documents from such institution.

**SECTION 16‑13‑360.** Disposition of fines collected under Sections 16‑13‑330 and 16‑13‑340.

Any and all fines collected pursuant to the terms of Sections 16‑13‑330 and 16‑13‑340 shall be paid into the fund of the county library or municipal, school, college or other institutional library or gallery, museum, collection or exhibition injured by the act of the person so fined.

**SECTION 16‑13‑370.** Cumulative effect of Sections 16‑13‑330 to 16‑13‑360.

The provisions of Sections 16‑13‑330 to 16‑13‑360 are not intended as a substitute for or a replacement of any penalties now provided by law, but shall be considered accumulative and in addition thereto.

**SECTION 16‑13‑380.** Theft of electric current.

Any person who (a) has no contract, agreement, license, or permission with or from any person authorized to manufacture, sell, or use electricity for the purpose of light, heat, or power or with or from any authorized agent of the person for the use of electrical current belonging to or produced or furnished by the person and (b) wilfully withdraws or causes to be withdrawn in any manner and appropriate for his own use or for the use of any other person the current from the wires of the person authorized to manufacture, sell, or use electricity is guilty of a misdemeanor and, upon conviction for a first offense, must be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days. For a second or subsequent offense, the person is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both. Any person who shall aid, abet, or assist the person in the withdrawing and appropriating of the current from the wires to or for the use of the other person or to or for the use of any other person is guilty of a misdemeanor and, upon conviction, must be punished in like manner.

**SECTION 16‑13‑385.** Altering, tampering with or bypassing electric, gas or water meters; penalties.

(A) It is unlawful for an unauthorized person to alter, tamper with, or bypass a meter which has been installed for the purpose of measuring the use of electricity, gas, or water.

A meter found in a condition which would cause electricity, gas, or water to be diverted from the recording apparatus of the meter or to cause the meter to inaccurately measure the use of electricity, gas, or water or the attachment to a meter or distribution wire of any device, mechanism, or wire which would permit the use of unmetered electricity, gas, or water or would cause a meter to inaccurately measure the use is prima facie evidence that the person in whose name the meter was installed or the person for whose benefit electricity, gas, or water was diverted caused the electricity, gas, or water to be diverted from going through the meter or the meter to inaccurately measure the use of the electricity, gas, or water.

(B) A person who violates the provisions of this section for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;

(2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than five years, or both.

(C) A person who violates the provisions of this section for profit or income on behalf of a person in whose name the meter was installed or a person for whose benefit electricity, gas, or water was diverted for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(D) A person who violates the provisions of this section and the violation results in property damage in excess of five thousand dollars or results in the risk of great bodily injury or death from fire, explosion, or electrocution for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(E) A person who violates the provisions of this section and the violation results in:

(1) great bodily injury to another person is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than fifteen years, or both. For purposes of this item, “great bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ; and

(2) the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(F) This section does not apply to licensed and certified contractors while performing usual and ordinary service in accordance with recognized standards.

(G) A person who violates the provisions of this section for the purpose of growing or manufacturing controlled substances listed, or to be listed, in the schedules in Sections 44‑53‑190, 44‑53‑210, 44‑53‑230, 44‑53‑250, and 44‑53‑270 is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned for not more than ten years, or both.

**SECTION 16‑13‑390.** Cheating producers of electricity.

Any person who (a) has a contract, agreement, license or permission, oral or written, with or from any person authorized to manufacture, sell or use electricity for the purpose of light, heat or power or with or from any authorized agent of such person for the use of the electrical current belonging to or produced or furnished by any such person, for certain specified purposes and (b) shall wilfully and intentionally withdraw or cause to be withdrawn, in any manner, and appropriate to his own use or to the use of any other person electrical current for purposes other than those specified shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in Section 16‑13‑380. And any such person to whom such electrical current is furnished from or by means of a meter who shall wilfully and with intention to cheat and defraud any person, alter or interfere with such meter or by any contrivance whatsoever withdraw or take off electrical current in any manner except through such meter shall be guilty of a misdemeanor and be punished as provided in Section 16‑13‑380.

**SECTION 16‑13‑400.** Avoiding or attempting to avoid payment of telecommunications services.

Any person who knowingly avoids or attempts to avoid, or causes another to avoid, the lawful charges or payments, in whole or in part, for any telecommunications service or for the transmission of a message, signal, or other telecommunication over telephone or telegraph facilities:

(1) By charging such service to an existing telephone number or credit card number without the authority of the subscriber thereto or the lawful holder thereof;

(2) By charging such service to a nonexistent telephone number or credit card number, or to a number associated with telephone service which is suspended or terminated, or to a revoked or canceled credit card number;

(3) By use of a code, prearranged scheme, or other similar stratagem or device whereby such person, in effect, sends or receives information;

(4) By rearranging, tampering with, or making connection with any facilities or equipment of a telephone company, whether physically, inductively, acoustically, or otherwise; or

(5) By the use of any other fraudulent means, method, trick or device; is guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than one thousand dollars or imprisoned not more than one year, or both.

**SECTION 16‑13‑410.** Making or possessing device, plans or instructions which can be used to violate Section 16‑13‑400.

(1) Any person who knowingly makes or possesses any device or any plans or instructions for making the same which can be used to violate the provisions of Section 16‑13‑400 or to conceal from any supplier of telecommunication service the existence, origin or destination of any telecommunication shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(2) Any magistrate may issue a warrant to search for and seize any such device upon application supported by oath of the complainant which shall set forth the facts upon which the application is based, specifically designating the place and the object of the search or seizure. Any such device seized under warrant or as an incident to a lawful arrest shall after conviction of the owner or possessor thereof be destroyed by the sheriff of the county in which such person was convicted.

**SECTION 16‑13‑420.** Failure to return leased or rented property; fraudulent appropriation of leased or rented property.

(A) A person having any property in his possession or under his control by virtue of a lease or rental agreement is guilty of larceny if he:

(1) wilfully and fraudulently fails to return the property within seventy‑two hours after the lease or rental agreement has expired;

(2) fraudulently secretes or appropriates the property to any use or purpose not within the due and lawful execution of the lease or rental agreement.

The provisions of this section do not apply to lease‑purchase agreements or conditional sales type contracts.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the rented or leased item is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the rented or leased item is more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the rented or leased item is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days, or both.

**SECTION 16‑13‑430.** Fraudulent acquisition or use of food stamps.

(A) It is unlawful for a person to:

(1) obtain, attempt to obtain, aid, abet, or assist any person to obtain, by means of a false statement or representation, false impersonation, fictitious transfer, conveyance, or other fraudulent device, food stamps or coupons to which an applicant is not entitled or a greater amount of food stamps or coupons than that which an applicant is justly entitled; or

(2) to acquire, possess, use, or transfer food stamps or coupons except as authorized by law and the rules and regulations of the United States Department of Agriculture relating to these matters.

(B) It is unlawful for a person to acquire or transfer food stamps or coupons except in exchange for food or food products for human consumption, which do not include alcoholic beverages, tobacco, beer, or wine.

(C) A person who violates the provisions of this section is guilty of a:

(1) felony if the amount of food stamps fraudulently acquired or used is of a value of ten thousand dollars or more. Upon conviction, the person must be fined not more than five thousand dollars or imprisoned not more than ten years, or both;

(2) felony if the amount of food stamps fraudulently acquired or used is of a value of more than two thousand dollars but less than ten thousand dollars. Upon conviction, the person must be fined not more than five hundred dollars or imprisoned not more than five years, or both;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the amount of food stamps fraudulently acquired or used is of a value of two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.

(D) A mercantile establishment which allows purchases of prohibited items in exchange for food stamps or coupons or currency of the United States must be disqualified from participation in the food stamp program for a period not to exceed two years and fined not more than five thousand dollars, or both.

**SECTION 16‑13‑437.** False statement or representation as to income to public housing agency to obtain or retain public housing or with respect to determining rent; misdemeanor; penalties; restitution.

It is unlawful for a person knowingly to make a false statement or representation with respect to the person’s individual or family income to a public housing agency in obtaining or retaining public housing or with respect to the determination of rent due from the person for public housing. For purposes of this section public housing includes private housing provided through a housing program managed by a public housing agency. For purposes of this section, public housing agency means an agency of state, regional, county, or municipal government, including housing authorities, which administer state or federal housing programs. A person violating this provision is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than two years or fined not more than one thousand dollars and the person convicted must be ordered to pay restitution to the public housing agency.

**SECTION 16‑13‑440.** Fraudulent refunds from businesses; use of false or fictitious driver’s licenses or identification cards; penalties.

(A) It is unlawful for a person to give a false or fictitious name or address, or to give the name or address of another person without that person’s approval, for the purpose of obtaining or attempting to obtain a refund from a business establishment for merchandise.

A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days.

(B) It is unlawful for a person to obtain or attempt to obtain a refund in the form of cash, check, credit on a credit card, merchant gift card, or credit in any other form from a merchant using a motor vehicle driver’s license not issued to the person, a motor vehicle driver’s license containing false information, an altered motor vehicle driver’s license, an identification card containing false information, an altered identification card, or an identification card not issued to the person. A person who violates the provisions of this subsection:

(1) when the value is less than two thousand dollars, is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned for not more than six months, or both;

(2) when the value is two thousand dollars or more, is guilty of a felony and, upon conviction, must be fined not more than five thousand five hundred dollars or imprisoned for not more than five years, or both; or

(3) regardless of the value involved, if the person has two or more prior convictions for a violation of this subsection, is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

**SECTION 16‑13‑450.** Unlawful issuance, sale, or offer to sell identification card or document purporting to contain age or date of birth.

(1) It is unlawful for any person to sell or issue, or to offer to sell or issue, in this State any identification card or document purporting to contain the age or date of birth of the person in whose name it was issued unless:

(a) Prior to selling or issuing an identification card or document, the person has first obtained from the applicant and retains for a period of three years from the date of sale:

1. an authenticated or certified copy of proof of age as provided in subsection (2) of this section;

2. a notarized affidavit from the applicant attesting to the applicant’s age and that the evidence of age required by subitem 1 of item (a) of this subsection is for the applicant.

(b) Prior to offering to sell identification cards in this State, the person has included in any offer for sale of identification cards or documents that the cards or documents may not be sold without the applicant first submitting the documents required by item (a) of this section.

(c) The identification card or document contains the business name and street address of the person selling or issuing the identification card or document.

(2) For purposes of this section acceptable evidence of age is:

1. a duly attested copy of the person’s birth certificate;

2. a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism, accompanied by an affidavit sworn to by the parent;

3. an insurance policy on the person’s life which has been in force for at least two years;

4. a passport or certificate of arrival in the United States showing the person’s age;

5. a transcript of record of age shown in the person’s school record at least four years prior to application, stating date of birth; or

6. if none of the evidences in subitems 1 through 5 may be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or licensed practicing physician, which certificate shall state that the health officer or physician has examined the person and believes that the age as stated in the affidavit is substantially correct.

(3) For purposes of this section, the term “offer to sell” includes every inducement, solicitation, attempt, printed or media advertisement to encourage a person to purchase an identification card.

(4) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction must be fined not less than five hundred dollars nor more than two thousand five hundred dollars or imprisoned for not more than six months, or both.

**SECTION 16‑13‑451.** Unlawful submission of documentation required under Section 16‑13‑450.

It is unlawful for any person to submit documentation as required by subitem 1 of item (a) of subsection (1) of Section 16‑13‑450, which contains false information. Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

**SECTION 16‑13‑452.** Law enforcement or intelligence activities not subject to Sections 16‑13‑450 and 16‑13‑451.

Sections 16‑13‑450 and 16‑13‑451 do not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement or intelligence agency of the United States, a state, or a political subdivision of a state.

**SECTION 16‑13‑460.** Church to separate and use money only for cemetery maintenance when so designated; penalties.

Any church which receives money specifically designated for the maintenance of a cemetery on its property shall account for the money separately, and it may be used only for the maintenance of the cemetery. Any person or member of the church governing board who knowingly approves or permits the use of the fund for any other purpose is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days.

**SECTION 16‑13‑470.** Defrauding drug and alcohol screening tests; penalty.

(A) It is unlawful for a person to:

(1) sell, give away, distribute, or market urine in this State or transport urine into this State with the intent of using the urine to defraud a drug or alcohol screening test;

(2) attempt to foil or defeat a drug or alcohol screening test by the substitution or spiking of a sample or the advertisement of a sample substitution or other spiking device or measure;

(3) adulterate a urine or other bodily fluid sample with the intent to defraud a drug or alcohol screening test;

(4) possess adulterants which are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of defrauding a drug or alcohol screening test; or

(5) sell adulterants which are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of defrauding a drug or alcohol screening test.

Intent is presumed if a heating element or any other device used to thwart a drug‑screening test accompanies the sale, giving, distribution, or marketing of urine or if instructions which provide a method for thwarting a drug‑screening test accompany the sale, giving, distribution, or marketing of urine.

(B) A person who violates a provision of subsection (A):

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years, or both; and

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than five years, or both.

**SECTION 16‑13‑480.** Providing false identifications for use by unlawful aliens; penalty.

Unless otherwise provided by law, it is unlawful for a person to make, issue, or sell, or offer to make, issue, or sell, a false, fictitious, fraudulent, or counterfeit picture identification that is for use by an alien who is unlawfully present in the United States. A person who violates this section is guilty of a felony, and, upon conviction, must be fined twenty‑five thousand dollars or imprisoned for not more than five years, or both.

ARTICLE 2

Personal Financial Security Act

**SECTION 16‑13‑500.** Citation of article.

This article may be cited as the “Personal Financial Security Act”.

**SECTION 16‑13‑510.** Financial identity fraud or identity fraud; penalty.

(A) It is unlawful for a person to commit the offense of financial identity fraud or identity fraud.

(B) A person is guilty of financial identity fraud when the person, without the authorization or permission of another individual, and with the intent of unlawfully:

(1) appropriating the financial resources of the other individual to the person’s own use or the use of a third party;

(2) devising a scheme or artifice to defraud; or

(3) obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises obtains or records identifying information which would assist in accessing the financial records of the other individual or accesses or attempts to access the financial resources of the other individual through the use of identifying information as defined in subsection (D).

(C) A person is guilty of identity fraud when the person uses identifying information, as defined in subsection (D), of another individual for the purpose of obtaining employment or avoiding identification by a law enforcement officer, criminal justice agency, or another governmental agency, including, but not limited to, law enforcement, detention, and correctional agencies or facilities.

(D) “Personal identifying information” includes, but is not limited to:

(1) social security numbers;

(2) driver’s license numbers or state identification card numbers issued instead of a driver’s license;

(3) checking account numbers;

(4) savings account numbers;

(5) credit card numbers;

(6) debit card numbers;

(7) personal identification (PIN) numbers;

(8) electronic identification numbers;

(9) digital signatures;

(10) dates of birth;

(11) current or former names, including first and last names, middle and last names, or first, middle, and last names, but only when the names are used in combination with, and linked to, other identifying information provided in this section;

(12) current or former addresses, but only when the addresses are used in combination with, and linked to, other identifying information provided in this section; or

(13) other numbers, passwords, or information which may be used to access a person’s financial resources, numbers, or information issued by a governmental or regulatory entity that uniquely will identify an individual or an individual’s financial resources.

(E) “Financial resources” includes:

(1) existing money and financial wealth contained in a checking account, savings account, line of credit, or otherwise;

(2) a pension plan, retirement fund, annuity, or other fund which makes payments monthly or periodically to the recipient; and

(3) the establishment of a line of credit or an amount of debt whether by loan, credit card, or otherwise for the purpose of obtaining goods, services, or money.

(F) A person who violates this section is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The court may order restitution to the victim pursuant to the provisions of Section 17‑25‑322.

(G) Venue for the prosecution of offenses pursuant to this section is in the county in which:

(1) the victim resided at the time the information was obtained or used; or

(2) the information is obtained or used.

(H) In a prosecution for a violation of this section, the State is not required to establish and it is not a defense that some of the acts constituting the crime did not occur in this State or within one city, county, or local jurisdiction.

**SECTION 16‑13‑512.** Printing credit and debit card numbers on sales receipts; exceptions; penalties.

(A) Except as provided in this section, a person, firm, partnership, association, corporation, limited liability company, or any other entity which accepts credit cards or debit cards for the transaction of business must not print on a receipt provided to the cardholder at the point of sale:

(1) more than five digits of the credit card or debit card account number; and

(2) the expiration date of the credit card or debit card.

(B) This section does not apply to transactions in which the sole means of recording the cardholder’s credit card or debit card account number is by handwriting or by an imprint or copy of the credit card or debit card.

(C)(1) A person that violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty dollars for the first violation and one thousand dollars for each subsequent violation.

(2) A person that knowingly and wilfully violates the provisions of this section is guilty of a Class F felony and, upon conviction, must be imprisoned not more than five years and fined not more than one thousand dollars, or both.

(D) This section, in compliance with Public Law 108‑159, Section 113 of Title 1, is effective:

(1) three years after its enactment as to a cash register or other machine or device that electronically prints receipts for credit card or debit card transactions and that is in use before January 1, 2005; or

(2) one year after its enactment for those machines and devices first put into use on or after January 1, 2005.

**SECTION 16‑13‑520.** Venue.

In a criminal proceeding brought pursuant to this article, the crime is considered to have been committed in a county in which a part of the financial identity fraud took place, regardless of whether the defendant was ever actually in that county.

**SECTION 16‑13‑525.** Financial identity fraud enabling unlawfully present alien to live or work in United States; penalties.

(A) In addition to the penalties provided for in this chapter, a person who is convicted of, pleads guilty to, or enters into a plea of nolo contendere to financial identity fraud or identity fraud involving the false, fictitious, or fraudulent creation or use of documents that enable an alien who is unlawfully present in the United States to live or work in the United States, or to receive benefits administered by an agency or political subdivision of this State, must disgorge any benefit received or make restitution to the agency or political subdivision that administered the benefit or entitlement program, or both. A criminal charge pursuant to this chapter shall not preempt or preclude additional appropriate civil or criminal charges or penalties.

(B) A person who suffers an ascertainable loss of money or property, real or personal, as a result of a conviction or plea to a violation of financial identity fraud or identity fraud involving a matter described in subsection (A), may bring an action individually, or in a representative capacity, to recover actual damages against any person convicted of the violation. If a court finds that a violation has been established, the court shall award three times the actual damages sustained and may provide such other relief as it considers necessary or proper. Upon the finding by the court of a violation, the court shall award to the person bringing this action pursuant to this section reasonable attorney’s fees and costs.

(C) A person convicted of a violation of this subsection is jointly and severally liable for a loss suffered by a person or an agency or political subdivision of the State.

(D)(1) It is unlawful for a person to display, cause or permit to be displayed, or have in his possession a false, fictitious, fraudulent, or counterfeit identity document including, but not limited to, a driver’s license or social security card for the purpose of offering proof of United States citizenship or classification by the United States as an alien lawfully admitted for temporary or permanent residence under federal immigration law.

(2) A person who violates the provisions of this section:

(a) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days; and

(b) for a second offense or subsequent offenses, is guilty of a felony and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than five years.

(E) A violation of the provisions of this section is considered a separate criminal offense and does not preclude prosecution for perjury pursuant to Section 16‑9‑10 in addition to prosecution pursuant to the provisions of this section.

(F) In enforcing the terms of this section, no state officer shall attempt to make an independent judgment of an alien’s immigration status. State officials must verify any alien’s status with the federal government in accordance with 8 USC Section 1373(c).

**SECTION 16‑13‑530.** Exceptions from application of article.

Nothing in this article may be construed to apply to:

(1) the lawful acquisition and use of credit or other information in the course of a bona fide consumer or commercial transaction or in connection with an account by any financial institution or entity defined in or required to comply with the Federal Fair Credit Reporting Act, 15 U.S.C.A. Section 1681, or the Federal Gramm‑Leach‑Bliley Financial Modernization Act, 113 Stat. 1338;

(2) the lawful, good faith exercise of a security interest or a right to offset exercised by a creditor, agency, or financial institution; or

(3) the lawful, good faith compliance by a party when required by a warrant, levy, attachment, court order, or other judicial or administrative order, decree, or directive.