

**UNLAWFUL USE OF CREDIT CARD
[OR DEBIT CARD]
[OR PUBLIC BENEFIT CARD]
(A Misdemeanor)
(Use of Revoked or Cancelled
Credit Card, Debit Card
or Public Benefit Card)
PENAL LAW 165.17
(Committed on or after Nov. 1, 1995)**

The ____ count is Unlawful Use of a Credit Card [or Debit Card] [or Public Benefit Card].

Under our law, a person is guilty of Unlawful Use of a Credit Card [or Debit Card] [or Public Benefit Card] when, in the course of obtaining or attempting to obtain property [or a service], that person uses or displays a credit card [or debit card] [or public benefit card] which he or she knows to be revoked or cancelled.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "obtain," "attempt," and ["credit card"] ["debit card"] ["public benefit card"].

OBTAIN includes, but is not limited to, the bringing about of a transfer or purported transfer of property or a service, or of a legal interest therein, whether to the obtainer or another person.¹

A person ATTEMPTS to obtain property [or a service] by using or displaying a card which he or she knows to be revoked or cancelled when he or she intends to do so and engages in conduct which tends to effect that objective.²

¹See Penal Law § 155.00(2).

²See Penal Law § 110.00.

[A CREDIT CARD includes any credit card, credit plate, charge plate, courtesy card or other identification card or device issued by a person to another person which may be used to obtain a cash advance or loan or credit or to purchase or lease property or services on the credit of the issuer or of the holder.]³

[A DEBIT CARD includes a card, plate or other similar device issued by a person to another person which may be used, without a personal identification number or code (*or* similar identification number or code) (*or* similar identification), to purchase or lease property or services. The term does not include a credit card or a check, draft or similar instrument.]⁴

[A PUBLIC BENEFIT CARD means any medical assistance card, food stamp assistance card, public assistance card, or any other identification, authorization card or electronic access device issued by the state or a social services district, which entitles a person to obtain public assistance benefits under a local, state or federal program administered by the state, its political subdivisions or social services districts.]⁵

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), obtained or attempted to obtain property [*or* a service] by using or displaying a credit card [*or* debit card] [*or* public benefit card] which had been revoked or cancelled; and

2. That, when the defendant did so, he/she knew that

³See Penal Law § 155.00(7) and General Business Law § 511(1).

⁴See Penal Law § 155.00(7-a) and General Business Law § 511(9).

⁵See Penal Law § 155.00(7-b). For the definition of a "social services district," see Social Services Law § 2(7).

such card had been revoked or cancelled.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Unlawful Use of a Credit Card [*or* Debit Card] [*or* Public Benefit Card] as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Unlawful Use of a Credit Card [*or* Debit Card] [*or* Public Benefit Card] as charged in the _____ count.