A BILL FOR AN ACT
101 CONCERNING THE CULPABLE MENTAL STATE FOR IDENTITY THEFT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

The bill clarifies certain statutory language describing the offenses of identity theft. To commit identity theft, it is not necessary that a person be aware that the personal identifying information, financial identifying information, or financial device involved in the commission of the offense belongs to another person.

Shading denotes HOUSE amendment.  Double underlining denotes SENATE amendment.  Capital letters indicate new material to be added to existing statute.  Dashes through the words indicate deletions from existing statute.
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 18-5-902, amend (1) introductory portion, (1) (a), (1) (b), (1) (c), (1) (d), and (1) (e); and add (1.5) and (1.7) as follows:

18-5-902. Identity theft. (1) A person commits identity theft if he or she:

(a) KNOWINGLY:

(a) (I) Knowingly Uses the personal identifying information, financial identifying information, or a financial device of another without permission or lawful authority, with the intent to obtain cash, credit, property, services, or any other thing of value or to make a financial payment;

(b) (II) Knowingly Possesses the personal identifying information, financial identifying information, or a financial device of another without permission or lawful authority, with the intent to use or to aid or permit some other person to use such information or device to obtain cash, credit, property, services, or any other thing of value or to make a financial payment;

(e) (III) With the intent to defraud, Falsely makes, completes, alters, or utters a written instrument or financial device containing any personal identifying information or financial identifying information of another WITH THE INTENT TO DEFRAUD;

(d) (IV) Knowingly Possesses the personal identifying information or financial identifying information of another without permission or lawful authority, WITH THE INTENT to use THE INFORMATION in applying for or completing an application for a financial device or
other extension of credit; OR

(e) (V) Knowingly Uses or possesses the personal identifying information of another without permission or lawful authority, with the intent to USE THE INFORMATION TO obtain a government-issued document;

or AND

(b) THE INFORMATION OR DEVICE IS THAT OF ANOTHER.

(1.5) THE ELEMENT SET FORTH IN PARAGRAPH (b) OF SUBSECTION (1) IS ONE OF STRICT LIABILITY.


SECTION 2. Exception to the requirements of section 2-2-703, Colorado Revised Statutes. The general assembly hereby finds that the amendments to section 18-5-902, Colorado Revised Statutes, enacted in section 1 of this act will result in the minor fiscal impact of one additional offender being convicted and sentenced to the department of corrections during the five years following passage of this act. Because of the relative insignificance of this degree of fiscal impact, these amendments are an exception to the five-year appropriation requirements specified in section 2-2-703, Colorado Revised Statutes.

SECTION 3. Act subject to petition - effective date. This act
shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.