

Expat Counsel

By James Finch and Nilobon Tangprasit

CRIMINAL LAW IN THAILAND

Part LIII: Buying fake IDs in Thailand

Spectrum has reported on how it's possible to buy fake identification documents in Thailand without much difficulty. Many readers have asked us about the legalities of doing so.

Somehow, legitimate identification papers, such as passports, driving licences and national ID cards from countries outside Thailand find their way into this country. Some are stolen, others lost or simply outdated.

Sellers of these documents in Thailand offer to alter them by, for example, changing the names and photos, so that a buyer can purchase an ID bearing his or her name and photo.

The sellers claim that while such alterations may be a crime in the country from which the ID came, they do not violate Thai law.

They are incorrect, and probably know that when they tell potential buyers this.

Title VII of the Thai Criminal Code, which relates to the counterfeiting and alteration of documents, contains specific provisions against forgeries like this.

First, the Code defines documents to include all identification cards and instruments, such as passports and identity cards of Thailand or other nations.

Also, the definition of counterfeiting or forgery is set forth in Section 264 of Title VII as follows:

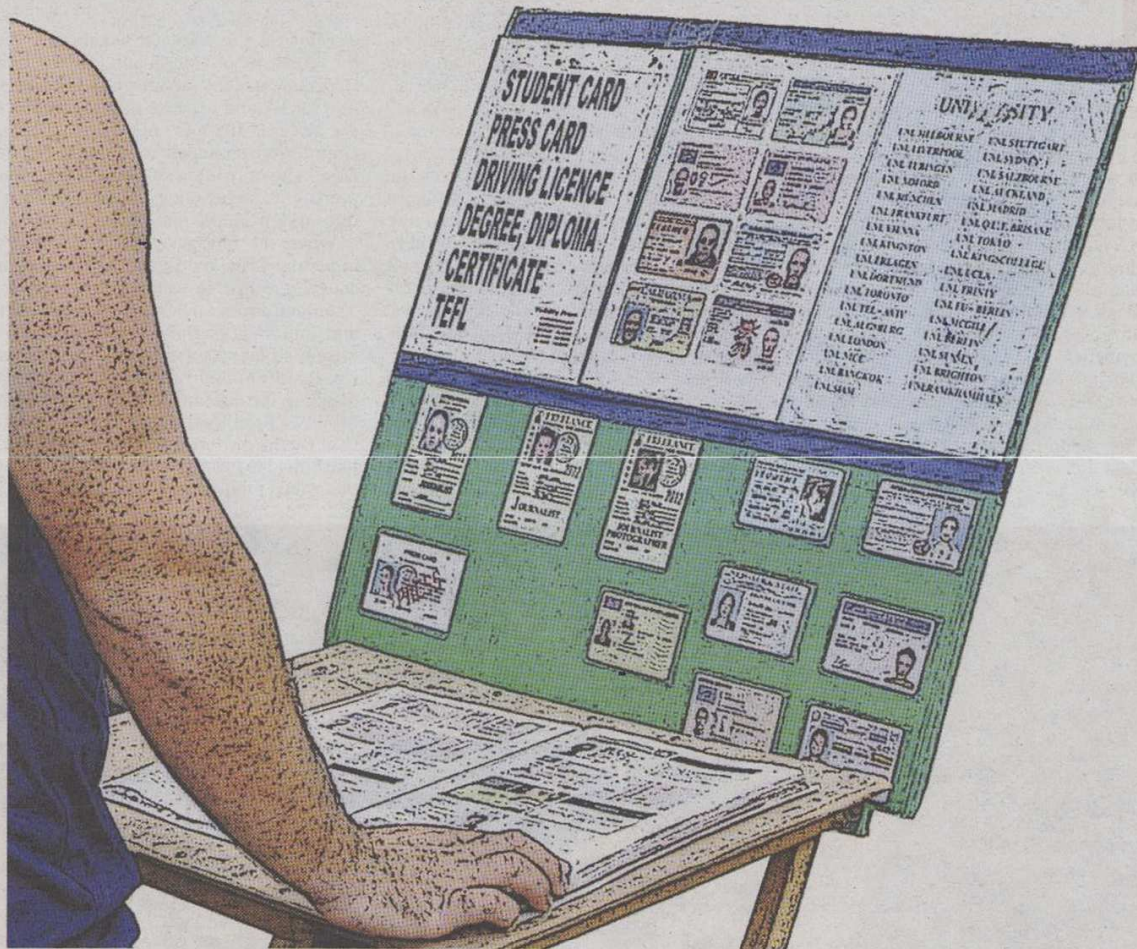
- Fabricating a false document or part of a document.
- Adding, taking from, or otherwise altering a genuine document.
- Putting a false seal or signature on a document, in order to make any person believe the document is genuine and in a manner likely to cause injury to another person or the public.

The above description would include inserting your photo or name or signature into an otherwise genuine document. Finally, since the use of fake documents is likely to cause injury to other persons or the public, phoney ID cards and passports would be considered forged documents under Thai law.

The penalty for violating Section 264 of the Code is imprisonment not exceeding three years, receiving a fine not exceeding 6,000 baht, or both.

Under Section 84 of the Code, anyone ordering a false document is also exposed to the penalties for Section 264 because buying such a document may make the buyer an instigator. Under Thai law, an instigator is exposed to the same penalty as the person actually falsifying the document.

Here's an example of how a buyer would be considered an instigator. Mr X is walking down Khao San Road and comes to a stall



where Mr Y is selling fake national IDs from another country. Mr X gives Mr Y a passport photo and orders a fake ID. The next day Mr Y makes it and delivers it to Mr X. Because Mr X has ordered the fake ID from Mr Y, he is likely to be considered an instigator and would be subject to the penalties of Section 264.

There are particular penalties in connection with fake passports. Section 269/9 of the Code provides that anyone who owns and intends to use a fake passport is subject to a fine and up to 10 years' imprisonment.

Let's look at an example. Ms A, a foreigner, is arrested for stealing in Pattaya. The arresting officer takes her to a police station and inventories her belongings.

Among them are passports from two different countries. The embassies of the two countries are contacted by the police and it turns out that one of the passports

is a fake. If Ms A admits she was going to use the fake passport to travel to other countries, she would be subject to the penalties of Section 269/9.

You should also keep in mind that Thailand is a party to treaties against international terrorism.

Since use of false identification documents is the primary method terrorists use to move between countries, some of these treaties contain provisions about fake identification.

If you are arrested in Thailand for buying altered identification documents from other countries, you may be exposed to the laws of the other countries in connection with the alteration of their official documents, as well.

The quality of some of the forged identification documents coming from Thailand is undoubtedly low. For example, the holograms on some forged documents pro-

duced in Thailand are obviously not genuine. Because of this, some have conjectured that the low quality of some of the fake IDs produced here would prevent their purchase from being considered illegal. After all, they are obvious fakes, right?

However, that is not the case. If the Thai authorities believe the intent was to make any person believe that the document was genuine, there is a crime, whether the quality of the forgery was good or not. ■

James Finch of Chavalit Finch and Partners (finch@chavalitfinchlaw.com) and Nilobon Tangprasit of Siam City Law Offices Limited (nilobon@siamcitylaw.com).

Researchers: Sutapit Raktiprakorn and Sitra Horsinchai.

For more information visit www.chavalitfinchlaw.com.

Questions? Contact us at the email addresses above.