

1 A bill to be entitled
 2 An act relating to payment card offenses; amending s.
 3 817.625, F.S.; revising definitions; revising
 4 terminology; prohibiting the possession of a scanning
 5 device with intent to defraud; providing criminal
 6 penalties; specifying prima facie evidence of intent
 7 to defraud; providing an effective date.

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 9 Be It Enacted by the Legislature of the State of Florida:

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 11 Section 1. Section 817.625, Florida Statutes, is amended
 12 to read:

13 817.625 Use of scanning device or reencoder to defraud;
 14 possession of scanning device; penalties.-

15 (1) As used in this section, the term:

16 (a) ~~(d)~~ "Merchant" means a person who receives from an
 17 authorized user of a payment card, or someone the person
 18 believes to be an authorized user, a payment card or information
 19 from a payment card, or what the person believes to be a payment
 20 card or information from a payment card, as the instrument for
 21 obtaining, purchasing, or receiving goods, services, money, or
 22 anything else of value from the person.

23 (b) ~~(e)~~ "Payment card" means a credit card, charge card,
 24 debit card, or any other card that is issued to an authorized
 25 card user and that allows the user to obtain, purchase, or

26 receive goods, services, money, or anything else of value from a
27 merchant.

28 ~~(c)-(b)~~ "Reencoder" means an electronic device that places
29 encoded information from the computer chip, magnetic strip or
30 stripe, or other storage mechanism of a payment card onto the
31 computer chip, magnetic strip or stripe, or other storage
32 mechanism of a different payment card.

33 ~~(d)-(a)~~ "Scanning device" means a scanner, reader, or any
34 other electronic device that may be ~~is~~ used to access, read,
35 scan, obtain, memorize, or store, temporarily or permanently,
36 information encoded on the computer chip, magnetic strip or
37 stripe, or other storage mechanism of a payment card or from
38 another device that directly reads the information from the
39 card.

40 (2) (a) It is a felony of the third degree, punishable as
41 provided in s. 775.082, s. 775.083, or s. 775.084, for a person
42 to use:

43 1. A scanning device to access, read, obtain, memorize, or
44 store, temporarily or permanently, information encoded on the
45 computer chip, magnetic strip or stripe, or other storage
46 mechanism of a payment card without the permission of the
47 authorized user of the payment card and with the intent to
48 defraud the authorized user, the issuer of the authorized user's
49 payment card, or a merchant.

50 2. A reencoder to place information encoded on the

51 computer chip, magnetic strip or stripe, or other storage
52 mechanism of a payment card onto the computer chip, magnetic
53 strip or stripe, or other storage mechanism of a different card
54 without the permission of the authorized user of the card from
55 which the information is being reencoded and with the intent to
56 defraud the authorized user, the issuer of the authorized user's
57 payment card, or a merchant.

58 (b) Any person who violates subparagraph (a)1. or
59 subparagraph (a)2. a second or subsequent time commits a felony
60 of the second degree, punishable as provided in s. 775.082, s.
61 775.083, or s. 775.084.

62 (3) (a) A person who possesses, sells, or delivers a
63 scanning device knowingly and with the intent to defraud an
64 authorized user of a payment card, the issuer of a payment card,
65 or a merchant commits a felony of the third degree, punishable
66 as provided in s. 775.082, s. 775.083, or s. 775.084.

67 (b)1. For the purposes of this subsection, it shall be
68 prima facie evidence of knowledge and intent to defraud if the
69 person possessing the scanning device is not:

70 a. A law enforcement officer, an authorized representative
71 of a law enforcement officer, an officer of the Department of
72 Agriculture and Consumer Services, a State Attorney, a financial
73 security investigator employed by a merchant or financial
74 institution, or an authorized vendor to any of the
75 aforementioned authorized investigative agencies.

76 b. A person lawfully reporting the scanning device to a
77 law enforcement officer, an officer of the Department of
78 Agriculture and Consumer Services, a State Attorney, a financial
79 security investigator employed by a merchant or financial
80 institution, or an authorized vendor to any of the
81 aforementioned authorized investigative agencies.

82 2. Once prima facie evidence of knowledge and the intent
83 to defraud has been established, no additional identification of
84 payment card data, payment card users, payment card issuers, or
85 payment card merchants is required.

86 (4)(e) Any person who violates subparagraph (2)(a)1.,
87 ~~(a)1. or~~ subparagraph (2)(a)2., or subsection (3) (a)2. shall
88 also be subject to ~~the provisions of~~ ss. 932.701-932.7062.

89 Section 2. This act shall take effect October 1, 2017.