

SECOND REGULAR SESSION

SENATE BILL NO. 959

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDDLE.

Read 1st time January 24, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6043S.02I

AN ACT

To repeal sections 407.432, 407.433, and 407.436, RSMo, and to enact in lieu thereof four new sections relating to the credit user protection law, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 407.432, 407.433, and 407.436, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 407.432,
3 407.433, 407.435, and 407.436, to read as follows:

407.432. As used in sections 407.430 to 407.436, the following terms shall
2 mean:

3 (1) "Acquirer", a business organization, financial institution, or an agent
4 of a business organization or financial institution that authorizes a merchant to
5 accept payment by credit card for merchandise;

6 (2) "Cardholder", the person's name on the face of a credit card to whom
7 or for whose benefit the credit card is issued by an issuer[,] or any agent,
8 authorized signatory, or employee of such person;

9 (3) **"Chip", an integrated circuit imbedded in a card that stores**
10 **data so that the card may use the EMV payment method for**
11 **transactions;**

12 (4) **"Contactless payment", any payment method that uses a**
13 **contactless smart card, a near field communication (NFC) antenna,**
14 **radio-frequency identification (RFID) technology, or other method to**
15 **remotely communicate data to a scanning device for transactions;**

16 (5) "Counterfeit credit card", any credit card which is fictitious, altered,
17 or forged, any false representation, depiction, facsimile or component of a credit

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 card, or any credit card which is stolen, obtained as part of a scheme to defraud,
19 or otherwise unlawfully obtained, and which may or may not be embossed with
20 account information or a company logo;

21 [(4)] (6) "Credit card" [or "debit card"], any instrument or device,
22 whether known as a credit card, credit plate, bank service card, banking card,
23 check guarantee card, or debit card or by any other name, **that is** issued with or
24 without a fee by an issuer for the use of the cardholder in obtaining money or
25 merchandise on credit[,] **or by transferring payment from the cardholder's**
26 **bank account** or for use in an automated banking device to obtain any of the
27 services offered through the device. The presentation of a credit card account
28 number is deemed to be the presentation of a credit card. **"Credit card" shall**
29 **include credit or debit cards whose information is stored in a digital**
30 **wallet for use in in-app purchases or contactless payments;**

31 [(5)] (7) "Expired credit card", a credit card for which the expiration date
32 shown on it has passed;

33 [(6)] (8) "Issuer", the business organization [or], financial institution, or
34 [its] duly authorized agent[, which] **thereof that** issues a credit card;

35 [(7)] (9) "Merchandise", any objects, wares, goods, commodities,
36 intangibles, real estate, services, or anything else of value;

37 [(8)] (10) "Merchant", an owner or operator of any retail mercantile
38 establishment, or any agent, employee, lessee, consignee, officer, director,
39 franchisee, or independent contractor of such owner or operator. A merchant
40 includes a person who receives from [an authorized user of a payment card] a
41 **cardholder**, or an individual the person believes to be [an authorized user] a
42 **cardholder**, a [payment] **credit** card or information from a [payment] **credit**
43 card as the instrument for obtaining, purchasing, or receiving goods, services,
44 money, or anything of value from the person;

45 [(9)] (11) "Person", any natural person or his legal representative,
46 partnership, firm, for-profit or not-for-profit corporation, whether domestic or
47 foreign, company, foundation, trust, business entity or association, and any agent,
48 employee, salesman, partner, officer, director, member, stockholder, associate,
49 trustee or cestui que trust thereof;

50 [(10)] (12) "Reencoder", an electronic device that places encoded
51 information from the **chip or** magnetic strip or stripe of a credit [or debit] card
52 onto the **chip or** magnetic strip or stripe of a different credit [or debit] card;

53 [(11)] (13) "Revoked credit card", a credit card for which permission to

54 use it has been suspended or terminated by the issuer;

55 [(12)] (14) "Scanning device", a scanner, reader, or any other electronic
56 device that is used to access, read, scan, obtain, memorize, or store, temporarily
57 or permanently, information **stored in the chip or** encoded on the magnetic
58 strip or stripe of a credit [or debit] card. **"Scanning device" shall include**
59 **devices used by a merchant for contactless payments.**

407.433. 1. No person, other than the cardholder, shall[:

2 (1)] disclose more than the last five digits of a credit card [or debit card]
3 account number on any sales receipt provided to the cardholder for merchandise
4 sold in this state[;

5 (2) Use a scanning device to access, read, obtain, memorize, or store,
6 temporarily or permanently, information encoded on the magnetic strip or stripe
7 of a credit or debit card without the permission of the cardholder and with the
8 intent to defraud any person, the issuer, or a merchant; or

9 (3) Use a reencoder to place information encoded on the magnetic strip or
10 stripe of a credit or debit card onto the magnetic strip or stripe of a different card
11 without the permission of the cardholder from which the information is being
12 reencoded and with the intent to defraud any person, the issuer, or a merchant].

13 2. Any person who knowingly violates this section is guilty of an
14 infraction and any second or subsequent violation of this section is a class A
15 misdemeanor.

16 3. It shall not be a violation of [subdivision (1) of] subsection 1 of this
17 section if:

18 (1) The sole means of recording the credit card number [or debit card
19 number] is by handwriting or, prior to January 1, 2005, by an imprint of the
20 credit card [or debit card]; and

21 (2) For handwritten or imprinted copies of credit card [or debit card]
22 receipts, only the merchant's copy of the receipt lists more than the last five
23 digits of the account number.

24 4. This section shall become effective on January 1, 2003, and applies to
25 any cash register or other machine or device that prints or imprints receipts of
26 credit card [or debit card] transactions and which is placed into service on or
27 after January 1, 2003. Any cash register or other machine or device that prints
28 or imprints receipts on credit card [or debit card] transactions and which is
29 placed in service prior to January 1, 2003, shall be subject to the provisions of
30 this section on or after January 1, 2005.

407.435. 1. A person commits the offense of illegal use of a card scanner if the person:

(1) Directly or indirectly uses a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information stored in the chip or encoded on the magnetic strip or stripe of a credit card without the permission of the cardholder, the credit card issuer, or a merchant;

(2) Possesses a scanning device with the intent to defraud a cardholder, credit card issuer, or merchant or possesses a scanning device with the knowledge that some other person intends to use the scanning device to defraud a cardholder, credit card issuer, or merchant;

(3) Directly or indirectly uses a reencoder to copy a credit card without the permission of the cardholder of the card from which the information is being reencoded and does so with the intent to defraud the cardholder, the credit card issuer, or a merchant; or

(4) Possesses a reencoder with the intent to defraud a cardholder, credit card issuer, or merchant or possesses a reencoder with the knowledge that some other person intends to use the reencoder to defraud a cardholder, credit card issuer, or merchant.

2. The offense of illegal use of a card scanner is a class D felony. However, a second or subsequent offense arising from a separate incident is a class C felony.

3. A person commits the offense of defacing a credit card reader if a person damages, defaces, alters, or destroys a scanning device and the person has no right to do so. The offense of defacing a credit card reader is a class A misdemeanor.

407.436. [1. Any person who willfully and knowingly, and with the intent to defraud, engages in any practice declared to be an unlawful practice in sections 407.430 to 407.436 of this credit user protection law shall be guilty of a class E felony.

2.] The violation of any provision of sections 407.430 to 407.436 of this credit user protection law constitutes an unlawful practice pursuant to sections 407.010 to 407.130, and the violator shall be subject to all penalties, remedies and procedures provided in sections 407.010 to 407.130. The attorney general shall have all powers, rights, and duties regarding violations of sections 407.430 to 407.436 as are provided in sections 407.010 to 407.130, in addition to rulemaking

11 authority as provided in section 407.145.

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Bill

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