

By Senator Burt

16-813-01

1 A bill to be entitled
2 An act relating to fraud; creating s. 817.625,
3 F.S.; providing definitions; prohibiting the
4 use of a scanning device to access, read,
5 obtain, memorize, or store information encoded
6 on a payment card without the permission of,
7 and with intent to defraud, the authorized user
8 of the payment card; prohibiting the use of a
9 reencoder to place information onto a payment
10 card without the permission of, and with intent
11 to defraud, the authorized user of the payment
12 card; providing a penalty; providing an
13 enhanced penalty for a second or subsequent
14 violation of the act; amending s. 921.0022,
15 F.S., relating to the Criminal Punishment Code;
16 conforming the offense severity ranking chart
17 to changes made by the act; providing an
18 effective date.

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

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22 Section 1. Section 817.625, Florida Statutes, is
23 created to read:

24 817.625 Use of scanning device or reencoder to
25 defraud; penalties.--

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

27 (a) "Scanning device" means a scanner, reader, or any
28 other electronic device that is used to access, read, scan,
29 obtain, memorize, or store, temporarily or permanently,
30 information encoded on the magnetic strip or stripe of a
31 payment card.

1 (b) "Reencoder" means an electronic device that places
2 encoded information from the magnetic strip or stripe of a
3 payment card onto the magnetic strip or stripe of a different
4 payment card.

5 (c) "Payment card" means a credit card, charge card,
6 debit card, or any other card that is issued to an authorized
7 card user and that allows the user to obtain, purchase, or
8 receive goods, services, money, or anything else of value from
9 a merchant.

10 (d) "Merchant" means a person who receives from an
11 authorized user of a payment card, or someone the person
12 believes to be an authorized user, a payment card or
13 information from a payment card, or what the person believes
14 to be a payment card or information from a payment card, as
15 the instrument for obtaining, purchasing, or receiving goods,
16 services, money, or anything else of value from the person.

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

20 1. A scanning device to access, read, obtain,
21 memorize, or store, temporarily or permanently, information
22 encoded on the magnetic strip or stripe of a payment card
23 without the permission of the authorized user of the payment
24 card and with the intent to defraud the authorized user.

25 2. A reencoder to place information encoded on the
26 magnetic strip or stripe of a payment card onto the magnetic
27 strip or stripe of a different card without the permission of
28 the authorized user of the card from which the information is
29 being reencoded and with the intent to defraud the authorized
30 user.

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1 (b) Any person who violates subparagraph (a)1. or
2 subparagraph (a)2. a second or subsequent time commits a
3 felony of the second degree, punishable as provided in s.
4 775.082, s. 775.083, or s. 775.084.

5 Section 2. Paragraphs (d) and (e) of subsection (3) of
6 section 921.0022, Florida Statutes, are amended to read:

7 921.0022 Criminal Punishment Code; offense severity
8 ranking chart.--

9 (3) OFFENSE SEVERITY RANKING CHART

10	11	12	13	14
	Florida	Felony		
	Statute	Degree		Description
15			(d) LEVEL 4	
16	316.1935(3)	2nd		Driving at high speed or with
17				wanton disregard for safety while
18				fleeing or attempting to elude
19				law enforcement officer who is in
20				a marked patrol vehicle with
21				siren and lights activated.
22	784.07(2)(b)	3rd		Battery of law enforcement
23				officer, firefighter, intake
24				officer, etc.
25	784.075	3rd		Battery on detention or
26				commitment facility staff.
27	784.08(2)(c)	3rd		Battery on a person 65 years of
28				age or older.
29	784.081(3)	3rd		Battery on specified official or
30				employee.

1	784.082(3)	3rd	Battery by detained person on
2			visitor or other detainee.
3	784.083(3)	3rd	Battery on code inspector.
4	784.085	3rd	Battery of child by throwing,
5			tossing, projecting, or expelling
6			certain fluids or materials.
7	787.03(1)	3rd	Interference with custody;
8			wrongly takes child from
9			appointed guardian.
10	787.04(2)	3rd	Take, entice, or remove child
11			beyond state limits with criminal
12			intent pending custody
13			proceedings.
14	787.04(3)	3rd	Carrying child beyond state lines
15			with criminal intent to avoid
16			producing child at custody
17			hearing or delivering to
18			designated person.
19	790.115(1)	3rd	Exhibiting firearm or weapon
20			within 1,000 feet of a school.
21	790.115(2)(b)	3rd	Possessing electric weapon or
22			device, destructive device, or
23			other weapon on school property.
24	790.115(2)(c)	3rd	Possessing firearm on school
25			property.
26	800.04(7)(d)	3rd	Lewd or lascivious exhibition;
27			offender less than 18 years.
28	810.02(4)(a)	3rd	Burglary, or attempted burglary,
29			of an unoccupied structure;
30			unarmed; no assault or battery.
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1	810.02(4)(b)	3rd	Burglary, or attempted burglary,
2			of an unoccupied conveyance;
3			unarmed; no assault or battery.
4	810.06	3rd	Burglary; possession of tools.
5	810.08(2)(c)	3rd	Trespass on property, armed with
6			firearm or dangerous weapon.
7	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
8			or more but less than \$20,000.
9	812.014		
10	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
11			firearm, motor vehicle,
12			livestock, etc.
13	817.563(1)	3rd	Sell or deliver substance other
14			than controlled substance agreed
15			upon, excluding s. 893.03(5)
16			drugs.
17	<u>817.625(2)(a)</u>	<u>3rd</u>	<u>Fraudulent use of scanning device</u>
18			<u>or reencoder.</u>
19	828.125(1)	2nd	Kill, maim, or cause great bodily
20			harm or permanent breeding
21			disability to any registered
22			horse or cattle.
23	837.02(1)	3rd	Perjury in official proceedings.
24	837.021(1)	3rd	Make contradictory statements in
25			official proceedings.
26	843.021	3rd	Possession of a concealed
27			handcuff key by a person in
28			custody.
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1	843.025	3rd	Deprive law enforcement,
2			correctional, or correctional
3			probation officer of means of
4			protection or communication.
5	843.15(1)(a)	3rd	Failure to appear while on bail
6			for felony (bond estreature or
7			bond jumping).
8	874.05(1)	3rd	Encouraging or recruiting another
9			to join a criminal street gang.
10	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
11			893.03(1)(a), (b), or (d),
12			(2)(a), (2)(b), or (2)(c)4.
13			drugs).
14	914.14(2)	3rd	Witnesses accepting bribes.
15	914.22(1)	3rd	Force, threaten, etc., witness,
16			victim, or informant.
17	914.23(2)	3rd	Retaliation against a witness,
18			victim, or informant, no bodily
19			injury.
20	918.12	3rd	Tampering with jurors.
21			(e) LEVEL 5
22	316.027(1)(a)	3rd	Accidents involving personal
23			injuries, failure to stop;
24			leaving scene.
25	316.1935(4)	2nd	Aggravated fleeing or eluding.
26	322.34(6)	3rd	Careless operation of motor
27			vehicle with suspended license,
28			resulting in death or serious
29			bodily injury.
30	327.30(5)	3rd	Vessel accidents involving
31			personal injury; leaving scene.

1	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
2			knowing HIV positive.
3	790.01(2)	3rd	Carrying a concealed firearm.
4	790.162	2nd	Threat to throw or discharge
5			destructive device.
6	790.163	2nd	False report of deadly explosive.
7	790.165(2)	3rd	Manufacture, sell, possess, or
8			deliver hoax bomb.
9	790.221(1)	2nd	Possession of short-barreled
10			shotgun or machine gun.
11	790.23	2nd	Felons in possession of firearms
12			or electronic weapons or devices.
13	800.04(6)(c)	3rd	Lewd or lascivious conduct;
14			offender less than 18 years.
15	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
16			offender 18 years or older.
17	806.111(1)	3rd	Possess, manufacture, or dispense
18			fire bomb with intent to damage
19			any structure or property.
20	812.019(1)	2nd	Stolen property; dealing in or
21			trafficking in.
22	812.131(2)(b)	3rd	Robbery by sudden snatching.
23	812.16(2)	3rd	Owning, operating, or conducting
24			a chop shop.
25	817.034(4)(a)2.	2nd	Communications fraud, value
26			\$20,000 to \$50,000.
27	<u>817.625(2)(b)</u>	<u>2nd</u>	<u>Second or subsequent fraudulent</u>
28			<u>use of scanning device or</u>
29			<u>reencoder.</u>
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1	825.1025(4)	3rd	Lewd or lascivious exhibition in
2			the presence of an elderly person
3			or disabled adult.
4	827.071(4)	2nd	Possess with intent to promote
5			any photographic material, motion
6			picture, etc., which includes
7			sexual conduct by a child.
8	843.01	3rd	Resist officer with violence to
9			person; resist arrest with
10			violence.
11	874.05(2)	2nd	Encouraging or recruiting another
12			to join a criminal street gang;
13			second or subsequent offense.
14	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
15			cocaine (or other s.
16			893.03(1)(a), (1)(b), (1)(d),
17			(2)(a), (2)(b), or (2)(c)4.
18			drugs).
19	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
20			cannabis (or other s.
21			893.03(1)(c), (2)(c)1., (2)(c)2.,
22			(2)(c)3., (2)(c)5., (2)(c)6.,
23			(2)(c)7., (2)(c)8., (2)(c)9.,
24			(3), or (4) drugs) within 1,000
25			feet of a child care facility or
26			school.
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1 893.13(1)(d)1. 1st Sell, manufacture, or deliver
2 cocaine (or other s.
3 893.03(1)(a), (1)(b), (1)(d),
4 (2)(a), (2)(b), or (2)(c)4.
5 drugs) within 200 feet of
6 university or public park.
7 893.13(1)(e)2. 2nd Sell, manufacture, or deliver
8 cannabis or other drug prohibited
9 under s. 893.03(1)(c), (2)(c)1.,
10 (2)(c)2., (2)(c)3., (2)(c)5.,
11 (2)(c)6., (2)(c)7., (2)(c)8.,
12 (2)(c)9., (3), or (4) within
13 1,000 feet of property used for
14 religious services or a specified
15 business site.
16 893.13(1)(f)1. 1st Sell, manufacture, or deliver
17 cocaine (or other s.
18 893.03(1)(a), (1)(b), (1)(d), or
19 (2)(a), (2)(b), or (2)(c)4.
20 drugs) within 200 feet of public
21 housing facility.
22 893.13(4)(b) 2nd Deliver to minor cannabis (or
23 other s. 893.03(1)(c), (2)(c)1.,
24 (2)(c)2., (2)(c)3., (2)(c)5.,
25 (2)(c)6., (2)(c)7., (2)(c)8.,
26 (2)(c)9., (3), or (4) drugs).
27 Section 3. This act shall take effect July 1, 2001.
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SENATE SUMMARY

Provides that it is a third-degree felony to use a scanning device to access, read, obtain, memorize, or store information encoded on a payment card without the permission of, and with intent to defraud, the authorized user of the payment card. Provides that it is a third-degree felony to use a reencoder to place information onto a payment card without the permission of, and with intent to defraud, the authorized user of the payment card. Provides that a second or subsequent violation of the act is a second-degree felony.