

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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5			ORIGINAL STAMP BELOW
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11 The Committee on Crime Prevention, Corrections & Safety  
12 offered the following:

14 **Amendment (with title amendment)**

15 On page 2, between lines 5 and 6,

17 insert:

18 Section 2. Section 817.625, Florida Statutes, is  
19 created to read:

20 817.625 Use of scanning device or reencoder to  
21 defraud; penalties.--

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

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

28 (b) "Reencoder" means an electronic device that places  
29 encoded information from the magnetic strip or stripe of a  
30 payment card onto the magnetic strip or stripe of a different  
31 payment card.

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

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

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

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

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

27           (b) Any person who violates subparagraph (a)1. or  
28 subparagraph (a)2. and who has been previously convicted of a  
29 violation of this section commits a felony of the second  
30 degree, punishable as provided in s. 775.082, s. 775.083, or  
31 s. 775.084.

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1           (c) Any person who violates subparagraph (a)1. or  
2 subparagraph (a)2. shall also be subject to the provisions of  
3 ss. 932.701-932.707.

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

6           921.0022 Criminal Punishment Code; offense severity  
7 ranking chart.--

8           (3) OFFENSE SEVERITY RANKING CHART

9

10	Florida	Felony	
11	Statute	Degree	Description

12

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14			(d) LEVEL 4
15	316.1935(3)	2nd	Driving at high speed or with
16			wanton disregard for safety while
17			fleeing or attempting to elude
18			law enforcement officer who is in
19			a marked patrol vehicle with
20			siren and lights activated.

21	784.07(2)(b)	3rd	Battery of law enforcement
22			officer, firefighter, intake
23			officer, etc.

24	784.075	3rd	Battery on detention or
25			commitment facility staff.

26	784.08(2)(c)	3rd	Battery on a person 65 years of
27			age or older.

28	784.081(3)	3rd	Battery on specified official or
29			employee.

30	784.082(3)	3rd	Battery by detained person on
31			visitor or other detainee.

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1	784.083(3)	3rd	Battery on code inspector.
2	784.085	3rd	Battery of child by throwing,
3			tossing, projecting, or expelling
4			certain fluids or materials.
5	787.03(1)	3rd	Interference with custody;
6			wrongly takes child from
7			appointed guardian.
8	787.04(2)	3rd	Take, entice, or remove child
9			beyond state limits with criminal
10			intent pending custody
11			proceedings.
12	787.04(3)	3rd	Carrying child beyond state lines
13			with criminal intent to avoid
14			producing child at custody
15			hearing or delivering to
16			designated person.
17	790.115(1)	3rd	Exhibiting firearm or weapon
18			within 1,000 feet of a school.
19	790.115(2)(b)	3rd	Possessing electric weapon or
20			device, destructive device, or
21			other weapon on school property.
22	790.115(2)(c)	3rd	Possessing firearm on school
23			property.
24	800.04(7)(d)	3rd	Lewd or lascivious exhibition;
25			offender less than 18 years.
26	810.02(4)(a)	3rd	Burglary, or attempted burglary,
27			of an unoccupied structure;
28			unarmed; no assault or battery.
29	810.02(4)(b)	3rd	Burglary, or attempted burglary,
30			of an unoccupied conveyance;
31			unarmed; no assault or battery.

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1	810.06	3rd	Burglary; possession of tools.
2	810.08(2)(c)	3rd	Trespass on property, armed with
3			firearm or dangerous weapon.
4	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
5			or more but less than \$20,000.
6	812.014		
7	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
8			firearm, motor vehicle,
9			livestock, etc.
10	817.563(1)	3rd	Sell or deliver substance other
11			than controlled substance agreed
12			upon, excluding s. 893.03(5)
13			drugs.
14	<u>817.625(2)(a)</u>	<u>3rd</u>	<u>Fraudulent use of scanning device</u>
15			<u>or reencoder.</u>
16	828.125(1)	2nd	Kill, maim, or cause great bodily
17			harm or permanent breeding
18			disability to any registered
19			horse or cattle.
20	837.02(1)	3rd	Perjury in official proceedings.
21	837.021(1)	3rd	Make contradictory statements in
22			official proceedings.
23	843.021	3rd	Possession of a concealed
24			handcuff key by a person in
25			custody.
26	843.025	3rd	Deprive law enforcement,
27			correctional, or correctional
28			probation officer of means of
29			protection or communication.
30	843.15(1)(a)	3rd	Failure to appear while on bail
31			for felony (bond estreature or

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1			bond jumping).
2	874.05(1)	3rd	Encouraging or recruiting another
3			to join a criminal street gang.
4	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
5			893.03(1)(a), (b), or (d),
6			(2)(a), (2)(b), or (2)(c)4.
7			drugs).
8	914.14(2)	3rd	Witnesses accepting bribes.
9	914.22(1)	3rd	Force, threaten, etc., witness,
10			victim, or informant.
11	914.23(2)	3rd	Retaliation against a witness,
12			victim, or informant, no bodily
13			injury.
14	918.12	3rd	Tampering with jurors.
15			(e) LEVEL 5
16	316.027(1)(a)	3rd	Accidents involving personal
17			injuries, failure to stop;
18			leaving scene.
19	316.1935(4)	2nd	Aggravated fleeing or eluding.
20	322.34(6)	3rd	Careless operation of motor
21			vehicle with suspended license,
22			resulting in death or serious
23			bodily injury.
24	327.30(5)	3rd	Vessel accidents involving
25			personal injury; leaving scene.
26	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
27			knowing HIV positive.
28	790.01(2)	3rd	Carrying a concealed firearm.
29	790.162	2nd	Threat to throw or discharge
30			destructive device.
31	790.163	2nd	False report of deadly explosive.

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1	790.165(2)	3rd	Manufacture, sell, possess, or
2			deliver hoax bomb.
3	790.221(1)	2nd	Possession of short-barreled
4			shotgun or machine gun.
5	790.23	2nd	Felons in possession of firearms
6			or electronic weapons or devices.
7	800.04(6)(c)	3rd	Lewd or lascivious conduct;
8			offender less than 18 years.
9	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
10			offender 18 years or older.
11	806.111(1)	3rd	Possess, manufacture, or dispense
12			fire bomb with intent to damage
13			any structure or property.
14	812.019(1)	2nd	Stolen property; dealing in or
15			trafficking in.
16	812.131(2)(b)	3rd	Robbery by sudden snatching.
17	812.16(2)	3rd	Owning, operating, or conducting
18			a chop shop.
19	817.034(4)(a)2.	2nd	Communications fraud, value
20			\$20,000 to \$50,000.
21	<u>817.625(2)(b)</u>	<u>2nd</u>	<u>Second or subsequent fraudulent</u>
22			<u>use of scanning device or</u>
23			<u>reencoder.</u>
24	825.1025(4)	3rd	Lewd or lascivious exhibition in
25			the presence of an elderly person
26			or disabled adult.
27	827.071(4)	2nd	Possess with intent to promote
28			any photographic material, motion
29			picture, etc., which includes
30			sexual conduct by a child.
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1	843.01	3rd	Resist officer with violence to
2			person; resist arrest with
3			violence.
4	874.05(2)	2nd	Encouraging or recruiting another
5			to join a criminal street gang;
6			second or subsequent offense.
7	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
8			cocaine (or other s.
9			893.03(1)(a), (1)(b), (1)(d),
10			(2)(a), (2)(b), or (2)(c)4.
11			drugs).
12	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
13			cannabis (or other s.
14			893.03(1)(c), (2)(c)1., (2)(c)2.,
15			(2)(c)3., (2)(c)5., (2)(c)6.,
16			(2)(c)7., (2)(c)8., (2)(c)9.,
17			(3), or (4) drugs) within 1,000
18			feet of a child care facility or
19			school.
20	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
21			cocaine (or other s.
22			893.03(1)(a), (1)(b), (1)(d),
23			(2)(a), (2)(b), or (2)(c)4.
24			drugs) within 200 feet of
25			university or public park.
26	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
27			cannabis or other drug prohibited
28			under s. 893.03(1)(c), (2)(c)1.,
29			(2)(c)2., (2)(c)3., (2)(c)5.,
30			(2)(c)6., (2)(c)7., (2)(c)8.,
31			(2)(c)9., (3), or (4) within



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1 1,000 feet of property used for  
2 religious services or a specified  
3 business site.  
4 893.13(1)(f)1. 1st Sell, manufacture, or deliver  
5 cocaine (or other s.  
6 893.03(1)(a), (1)(b), (1)(d), or  
7 (2)(a), (2)(b), or (2)(c)4.  
8 drugs) within 200 feet of public  
9 housing facility.  
10 893.13(4)(b) 2nd Deliver to minor cannabis (or  
11 other s. 893.03(1)(c), (2)(c)1.,  
12 (2)(c)2., (2)(c)3., (2)(c)5.,  
13 (2)(c)6., (2)(c)7., (2)(c)8.,  
14 (2)(c)9., (3), or (4) drugs).

===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 On page 1, line 9, after the semicolon,

21 insert:

22 creating s. 817.625, F.S.; providing  
23 definitions; prohibiting the use of a scanning  
24 device to access, read, obtain, memorize, or  
25 store information encoded on a payment card  
26 without the permission of, and with intent to  
27 defraud, the authorized user of the payment  
28 card; prohibiting the use of a reencoder to  
29 place information onto a payment card without  
30 the permission of, and with intent to defraud,  
31 the authorized user of the payment card;

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providing a penalty; providing an enhanced  
penalty for a second or subsequent violation of  
the act; subjecting certain violations to the  
Florida Contraband Forfeiture Act; amending s.  
921.0022, F.S., relating to the Criminal  
Punishment Code; conforming the offense  
severity ranking chart to changes made by the  
act;