

1 A bill to be entitled
2 An act relating to fraudulent activities associated
3 with payment systems; amending s. 316.80, F.S.;
4 revising the felony classification for unlawful
5 conveyance of fuel; amending s. 525.07, F.S.; requiring
6 retail petroleum fuel measuring devices fitted with
7 scanning devices to have certain security measures;
8 providing requirements for such measures; requiring
9 the owner or operator of a device to have certain
10 security measures in place within a specified
11 timeframe upon notice from the Department of
12 Agriculture and Consumer Services; authorizing the
13 department, under certain circumstances, to prohibit
14 use of or to remove from service such devices that are
15 noncompliant; defining terms; providing applicability;
16 requiring the Department of Agriculture and Consumer
17 Services to enforce provisions; providing for
18 rulemaking; amending s. 817.611, F.S.; reducing the
19 number of counterfeit credit cards that a person can
20 be in possession of to qualify as unlawful; amending
21 s. 921.0022, F.S.; ranking unlawful conveyance or
22 fraudulent acquisition of fuel as a level 5 offense;
23 ranking trafficking in or possession of counterfeit
24 credit cards as a level 5 offense; providing an
25 effective date.
26

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

28

29 Section 1. Subsection (2) of section 316.80, Florida
30 Statutes, is amended to read:

31 316.80 Unlawful conveyance of fuel; obtaining fuel
32 fraudulently.—

33 (2) A ~~Any~~ person who violates subsection (1) commits a
34 felony of the second ~~third~~ degree, punishable as provided in s.
35 775.082, s. 775.083, or s. 775.084, if he or she has attempted
36 to or has fraudulently obtained motor or diesel fuel by:

37 (a) Presenting a credit card or a credit card account
38 number in violation of ss. 817.57–817.685;

39 (b) Using unauthorized access to any computer network in
40 violation of s. 815.06; or

41 (c) Using a fraudulently scanned or lost or stolen payment
42 access device, whether credit card or contactless device.

43 Section 2. Subsection (10) is added to section 525.07,
44 Florida Statutes, to read:

45 525.07 Powers and duties of department; inspections;
46 unlawful acts.—

47 (10) (a) A person who owns or operates a retail petroleum
48 fuel measuring device shall have affixed to the measuring device
49 a security measure to hinder or prohibit the unauthorized access
50 of customer payment card information. At a minimum, such
51 security measure must include the placement of pressure-
52 sensitive security tape over the panel opening that leads to the

53 scanning device for the retail petroleum fuel measuring device
 54 in a manner that will hinder or prohibit the unauthorized
 55 opening of the panel. The owner or operator of a device without
 56 a security measure, upon notice from the department of such
 57 noncompliance, shall have 5 days to comply with this subsection.
 58 After the fifth day of noncompliance, the department may
 59 prohibit further use of the retail petroleum fuel measuring
 60 device until a security measure is installed. A repeat violation
 61 found on the same retail petroleum fuel measuring device will be
 62 cause for the department to immediately take the measuring
 63 device out of service.

64 (b) For purposes of this subsection, the terms "scanning
 65 device" and "payment card" have the same meanings as defined in
 66 s. 817.625.

67 (c) This subsection only applies to retail petroleum fuel
 68 measuring devices that have a scanning device.

69 (d) The Department of Agriculture and Consumer Services
 70 shall enforce, and may adopt rules to implement, this
 71 subsection.

72 Section 3. Section 817.611, Florida Statutes, is amended
 73 to read:

74 817.611 Traffic in or possess counterfeit credit cards.—
 75 Any person who traffics in, ~~or~~ attempts to traffic in, or
 76 possesses 5 ~~10~~ or more counterfeit credit cards, invoices,
 77 vouchers, sales drafts, or other representations or
 78 manifestations of counterfeit credit cards, or credit card

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79 | account numbers of another in any 6-month period is guilty of a
 80 | felony of the second degree, punishable as provided in s.
 81 | 775.082, s. 775.083, or s. 775.084.

82 | Section 4. Paragraph (e) of subsection (3) of section
 83 | 921.0022, Florida Statutes, is amended to read:

84 | 921.0022 Criminal Punishment Code; offense severity
 85 | ranking chart.—

86 | (3) OFFENSE SEVERITY RANKING CHART

87 | (e) LEVEL 5

88

Florida Statute	Felony Degree	Description
316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
<u>316.80 (2)</u>	<u>2nd</u>	<u>Unlawful conveyance; obtaining fuel fraudulently.</u>

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322.34 (6) 3rd Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

95

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327.30 (5) 3rd Vessel accidents involving personal injury; leaving scene.

97

379.367 (4) 3rd Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

98

379.3671 (2) (c) 3. 3rd Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.

99

381.0041 (11) (b) 3rd Donate blood, plasma, or organs

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			knowing HIV positive.
100	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
101	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
102	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
103	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
104	626.902 (1) (c)	2nd	Representing an

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			unauthorized insurer; repeat offender.
105	790.01 (2)	3rd	Carrying a concealed firearm.
106	790.162	2nd	Threat to throw or discharge destructive device.
107	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
108	790.221 (1)	2nd	Possession of short- barreled shotgun or machine gun.
109	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
110	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
111	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less

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112			than 18 years of age.
	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
113			
	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
114			
	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
115			
	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
116			
	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
117			
	812.131 (2) (b)	3rd	Robbery by sudden

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118			snatching.
119	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
120	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
121	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
122	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
123	817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided,

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or amount of injury or
 fraud, \$5,000 or more or use
 of personal identification
 information of 10 or more
 persons.

124

817.611

2nd

Traffic in or possess
counterfeit credit cards.

125

126

817.625 (2) (b)

2nd

Second or subsequent
 fraudulent use of
 scanning device or
 reencoder.

127

825.1025 (4)

3rd

Lewd or lascivious
 exhibition in the
 presence of an elderly
 person or disabled adult.

128

827.071 (4)

2nd

Possess with intent to
 promote any photographic
 material, motion picture,
 etc., which includes sexual
 conduct by a child.

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130	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
131	839.13 (2) (b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
132	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
133	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
134	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by

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electronic device or equipment.

135

874.05 (1) (b)

2nd

Encouraging or recruiting another to join a criminal gang; second or subsequent offense.

136

874.05 (2) (a)

2nd

Encouraging or recruiting person under 13 years of age to join a criminal gang.

137

893.13 (1) (a) 1.

2nd

Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).

138

893.13 (1) (c) 2.

2nd

Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs) within 1,000 feet

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of a child care facility,
 school, or state, county,
 or municipal park or
 publicly owned
 recreational facility or
 community center.

139

893.13(1)(d)1.

1st

Sell, manufacture, or
 deliver cocaine (or other
 s. 893.03(1)(a), (1)(b),
 (1)(d), (2)(a), (2)(b), or
 (2)(c)4. drugs) within
 1,000 feet of university.

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893.13(1)(e)2.

2nd

Sell, manufacture, or
 deliver cannabis or other
 drug prohibited under s.
 893.03(1)(c), (2)(c)1.,
 (2)(c)2., (2)(c)3.,
 (2)(c)5., (2)(c)6.,
 (2)(c)7., (2)(c)8.,
 (2)(c)9., (3), or (4)
 within 1,000 feet of
 property used for
 religious services or a
 specified business site.

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141 | 893.13(1)(f)1. | 1st | Sell, manufacture, or
 | | | deliver cocaine (or other
 | | | s. 893.03(1)(a), (1)(b),
 | | | (1)(d), or (2)(a), (2)(b),
 | | | or (2)(c)4. drugs) within
 | | | 1,000 feet of public
 | | | housing facility.

142 | 893.13(4)(b) | 2nd | Deliver to minor cannabis
 | | | (or other s. 893.03(1)(c),
 | | | (2)(c)1., (2)(c)2.,
 | | | (2)(c)3., (2)(c)5.,
 | | | (2)(c)6., (2)(c)7.,
 | | | (2)(c)8., (2)(c)9., (3), or
 | | | (4) drugs).

143 | 893.1351(1) | 3rd | Ownership, lease, or rental
 | | | for trafficking in or
 | | | manufacturing of controlled
 | | | substance.

144 |
 145 |
 146 | Section 5. This act shall take effect October 1, 2016.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.