

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; revising
6 terminology to specify requirements for managers,
7 rather than operators, of petroleum fuel measuring
8 devices with respect to accurate measurement;
9 requiring retail petroleum fuel measuring devices
10 fitted with scanning devices to have certain security
11 measures; providing requirements for such measures;
12 requiring the owner or operator of a device to have
13 certain security measures in place within a specified
14 timeframe upon notice from the Department of
15 Agriculture and Consumer Services; authorizing the
16 department, under certain circumstances, to prohibit
17 use of or to remove from service such devices that are
18 noncompliant; defining terms; providing applicability;
19 requiring the Department of Agriculture and Consumer
20 Services to enforce provisions; providing for
21 rulemaking; amending s. 817.611, F.S.; reducing the
22 number of counterfeit credit cards that a person can
23 be in possession of to qualify as unlawful; amending
24 s. 921.0022, F.S.; ranking unlawful conveyance or
25 fraudulent acquisition of fuel as a level 5 offense;
26 ranking trafficking in or possession of counterfeit

27 credit cards as a level 5 offense; providing an
 28 effective date.

29
 30 Be It Enacted by the Legislature of the State of Florida:
 31

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

34 316.80 Unlawful conveyance of fuel; obtaining fuel
 35 fraudulently.—

36 (2) A ~~Any~~ person who violates subsection (1) commits a
 37 felony of the second ~~third~~ degree, punishable as provided in s.
 38 775.082, s. 775.083, or s. 775.084, if he or she has attempted
 39 to or has fraudulently obtained motor or diesel fuel by:

40 (a) Presenting a credit card or a credit card account
 41 number in violation of ss. 817.57-817.685;

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

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

46 Section 2. Subsections (3) and (4) of section 525.07,
 47 Florida Statutes, are amended, and subsection (10) is added to
 48 that section, to read:

49 525.07 Powers and duties of department; inspections;
 50 unlawful acts.—

51 (3) Each person who owns or manages ~~All persons who own or~~
 52 ~~operate~~ a petroleum fuel measuring device is ~~shall be~~

53 responsible for ensuring accurate measure by the device within
 54 the tolerances defined by the rule. An appropriate security seal
 55 shall be placed on all measuring devices found to be giving
 56 accurate measure within the tolerances defined by the department
 57 in such a way that the metering adjustment cannot be changed
 58 without breaking the seal.

59 (4) A ~~Any~~ measuring device that is found to be operating
 60 outside the tolerances defined by the department is ~~shall be~~
 61 deemed inaccurate, and the department, at its discretion, shall
 62 either:

63 (a) Give, in writing, the ~~operator or~~ owner or manager of
 64 the measuring device a reasonable time to repair the measuring
 65 device; or

66 (b) Condemn or prohibit the further use of the measuring
 67 device by using an appropriate security seal to obstruct the
 68 mechanism so that it cannot be operated without breaking the
 69 seal. The measuring device shall not be operated in this state
 70 again without the written consent of the department.

71 (10) (a) Each person who owns or manages a retail petroleum
 72 fuel measuring device shall have affixed to or installed onto
 73 the measuring device a security measure to restrict the
 74 unauthorized access of customer payment card information. The
 75 security measure must include one or more of the following:

76 1. Placement of pressure-sensitive security tape over the
 77 panel opening that leads to the scanning device for the retail
 78 petroleum fuel measuring device in a manner that will restrict

79 the unauthorized opening of the panel.

80 2. A device or system that will render the retail
81 petroleum fuel measuring device or the scanning device in the
82 measuring device inoperable if there is an unauthorized opening
83 of the panel.

84 3. A device or system that encrypts the customer payment
85 card information in the scanning device.

86 4. Another security measure approved by the department.

87 (b) The owner or manager of a retail petroleum fuel
88 measuring device without a security measure or with an altered
89 or damaged security measure, upon written notice from the
90 department of such noncompliance, shall have 5 calendar days to
91 comply with this subsection. After the fifth day of
92 noncompliance, the department may prohibit further use of the
93 retail petroleum fuel measuring device until a security measure
94 is installed, replaced, or repaired. A repeat violation found on
95 the same retail petroleum fuel measuring device is cause for the
96 department to immediately take the measuring device out of
97 service.

98 (c) For purposes of this subsection, the terms "scanning
99 device" and "payment card" have the same meanings as provided in
100 s. 817.625.

101 (d) This subsection applies only to retail petroleum fuel
102 measuring devices that have a scanning device.

103 (e) The department shall enforce, and may adopt rules to
104 implement, this subsection.

105 Section 3. Section 817.611, Florida Statutes, is amended
 106 to read:

107 817.611 Traffic in or possess counterfeit credit cards.—
 108 Any person who traffics in, ~~or~~ attempts to traffic in, or
 109 possesses 5 ~~10~~ or more counterfeit credit cards, invoices,
 110 vouchers, sales drafts, or other representations or
 111 manifestations of counterfeit credit cards, or credit card
 112 account numbers of another in any 6-month period is guilty of a
 113 felony of the second degree, punishable as provided in s.
 114 775.082, s. 775.083, or s. 775.084.

115 Section 4. Paragraph (e) of subsection (3) of section
 116 921.0022, Florida Statutes, is amended to read:

117 921.0022 Criminal Punishment Code; offense severity
 118 ranking chart.—

- 119 (3) OFFENSE SEVERITY RANKING CHART
- 120 (e) LEVEL 5

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Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.

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132	(2) (c) 3.	possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
133	381.0041 (11) (b)	3rd Donate blood, plasma, or organs knowing HIV positive.
134	440.10 (1) (g)	2nd Failure to obtain workers' compensation coverage.
135	440.105 (5)	2nd Unlawful solicitation for the purpose of making workers' compensation claims.
136	440.381 (2)	2nd Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
	624.401 (4) (b) 2.	2nd Transacting insurance

			without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
137	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
138	790.01 (2)	3rd	Carrying a concealed firearm.
139	790.162	2nd	Threat to throw or discharge destructive device.
140	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
141	790.221 (1)	2nd	Possession of short- barreled shotgun or machine gun.
142	790.23	2nd	Felons in possession of firearms, ammunition, or

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143			electronic weapons or devices.
144	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
145	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
146	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
147	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
148	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300

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			or more and one or more specified acts.
149	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
150	812.131 (2) (b)	3rd	Robbery by sudden snatching.
151	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
152	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
153	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
154	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

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of an insuring entity.

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156

817.568 (2) (b)

2nd

Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.

157

817.611

2nd

Traffic in or possess counterfeit credit cards.

158

159

817.625 (2) (b)

2nd

Second or subsequent fraudulent use of scanning device or reencoder.

160

825.1025 (4)

3rd

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

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161	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
162	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
163	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.
164	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
165	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18

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			years or older.
166	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
167	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
168	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
169	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
170	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).
171	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
of a child care facility,
school, or state, county,
or municipal park or
publicly owned
recreational facility or
community center.

172

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.

173

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.,

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(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.

174

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.

175

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).

176

893.1351 (1)

3rd

Ownership, lease, or rental
 for trafficking in or

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manufacturing of controlled
substance.

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Section 5. This act shall take effect October 1, 2016.