

By Senator Flores

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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

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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

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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 to
 73 read:

74 817.611 Traffic in or possess counterfeit credit cards.—Any
 75 person who traffics in, ~~or~~ attempts to traffic in, or possesses
 76 5 ~~10~~ or more counterfeit credit cards, invoices, vouchers, sales
 77 drafts, or other representations or manifestations of
 78 counterfeit credit cards, or credit card account numbers of
 79 another in any 6-month period is guilty of a felony of the
 80 second degree, punishable as provided in s. 775.082, s. 775.083,
 81 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 ranking
 85 chart.—

86 (3) OFFENSE SEVERITY RANKING CHART

87 (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. |
| 316.1935 (4) (a) | 2nd | Aggravated fleeing or eluding. |
| <u>316.80 (2)</u> | <u>2nd</u> | <u>Unlawful conveyance; obtaining fuel fraudulently.</u> |
| 322.34 (6) | 3rd | Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury. |
| 327.30 (5) | 3rd | Vessel accidents involving personal injury; leaving scene. |

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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 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

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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
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

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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 than 18 years of age.

112

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

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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
snatching.

118

812.16 (2)

3rd

Owning, operating, or
conducting a chop shop.

119

817.034 (4) (a) 2.

2nd

Communications fraud,
value \$20,000 to
\$50,000.

120

817.234 (11) (b)

2nd

Insurance fraud;
property value \$20,000
or more but less than
\$100,000.

121

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

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entity.

122

123

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.

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

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adult.

128

827.071 (4)

2nd

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

129

827.071 (5)

3rd

Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.

130

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.

131

843.01

3rd

Resist officer with violence to person; resist arrest with violence.

132

847.0135 (5) (b)

2nd

Lewd or lascivious exhibition using

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computer; offender 18
years or older.

133

847.0137
(2) & (3)

3rd

Transmission of
pornography by
electronic device or
equipment.

134

847.0138
(2) & (3)

3rd

Transmission of material
harmful to minors to a
minor by 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.

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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 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.

140

893.13(1)(e)2.

2nd

Sell, manufacture, or deliver cannabis or other drug prohibited

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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.

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

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rental for trafficking
in or manufacturing of
controlled substance.

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145

146

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