

By the Committee on Criminal Justice; and Senator Flores

591-02542-16

2016912c1

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

28  
29   Be It Enacted by the Legislature of the State of Florida:

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

591-02542-16

2016912c1

33 316.80 Unlawful conveyance of fuel; obtaining fuel  
34 fraudulently.-

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

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

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

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

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

48 525.07 Powers and duties of department; inspections;  
49 unlawful acts.-

50 (3) Each person who owns or manages ~~All persons who own or~~  
51 ~~operate~~ a petroleum fuel measuring device shall be responsible  
52 for ensuring accurate measure by the device within the  
53 tolerances defined by the rule. An appropriate security seal  
54 shall be placed on all measuring devices found to be giving  
55 accurate measure within the tolerances defined by the department  
56 in such a way that the metering adjustment cannot be changed  
57 without breaking the seal.

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

61 (a) Give, in writing, the ~~operator or owner~~ or manager of

591-02542-16

2016912c1

62 the measuring device a reasonable time to repair the measuring  
63 device; or

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

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

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

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

82 3. A device or system that encrypts the customer payment  
83 card information in the scanning device.

84 4. Another security measure approved by the department.

85 (b) The owner or manager of a retail petroleum fuel  
86 measuring device without a security measure or with an altered  
87 or damaged security measure, upon written notice from the  
88 department of such noncompliance, shall have 5 calendar days to  
89 comply with this subsection. After the fifth day of  
90 noncompliance, the department may prohibit further use of the

591-02542-16

2016912c1

91 retail petroleum fuel measuring device until a security measure  
 92 is installed, replaced, or repaired. A repeat violation found on  
 93 the same retail petroleum fuel measuring device will be cause  
 94 for the department to immediately take the measuring device out  
 95 of service.

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

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

101 Section 3. Section 817.611, Florida Statutes, is amended to  
 102 read:

103 817.611 Traffic in or possess counterfeit credit cards.—Any  
 104 person who traffics in, ~~or~~ attempts to traffic in, or possesses  
 105 5 ~~10~~ or more counterfeit credit cards, invoices, vouchers, sales  
 106 drafts, or other representations or manifestations of  
 107 counterfeit credit cards, or credit card account numbers of  
 108 another in any 6-month period is guilty of a felony of the  
 109 second degree, punishable as provided in s. 775.082, s. 775.083,  
 110 or s. 775.084.

111 Section 4. Paragraph (e) of subsection (3) of section  
 112 921.0022, Florida Statutes, is amended to read:

113 921.0022 Criminal Punishment Code; offense severity ranking  
 114 chart.—

115 (3) OFFENSE SEVERITY RANKING CHART

116 (e) LEVEL 5

117

|         |        |             |
|---------|--------|-------------|
| Florida | Felony |             |
| Statute | Degree | Description |

591-02542-16

2016912c1

118

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

119

316.1935(4)(a) 2nd Aggravated fleeing or eluding.

120

121

316.80(2) 2nd Unlawful conveyance; obtaining fuel fraudulently.

122

123

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

124

125

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

126

379.367(4) 3rd Willful molestation of a commercial harvester's

591-02542-16

2016912c1

127

spiny lobster trap,  
line, or buoy.

379.3671  
(2) (c) 3.

3rd

Willful molestation,  
possession, or removal  
of a commercial  
harvester's trap  
contents or trap gear by  
another harvester.

128

381.0041 (11) (b)

3rd

Donate blood, plasma, or  
organs knowing HIV  
positive.

129

440.10 (1) (g)

2nd

Failure to obtain  
workers' compensation  
coverage.

130

440.105 (5)

2nd

Unlawful solicitation  
for the purpose of  
making workers'  
compensation claims.

131

440.381 (2)

2nd

Submission of false,  
misleading, or  
incomplete information  
with the purpose of  
avoiding or reducing  
workers' compensation

591-02542-16

2016912c1

premiums.

132

624.401 (4) (b) 2.

2nd

Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

133

626.902 (1) (c)

2nd

Representing an unauthorized insurer; repeat offender.

134

790.01 (2)

3rd

Carrying a concealed firearm.

135

790.162

2nd

Threat to throw or discharge destructive device.

136

790.163 (1)

2nd

False report of deadly explosive or weapon of mass destruction.

137

790.221 (1)

2nd

Possession of short-barreled shotgun or machine gun.

138

790.23

2nd

Felons in possession of

591-02542-16

2016912c1

firearms, ammunition, or  
 electronic weapons or  
 devices.

139

796.05 (1)

2nd

Live on earnings of a  
 prostitute; 1st offense.

140

800.04 (6) (c)

3rd

Lewd or lascivious  
 conduct; offender less  
 than 18 years of age.

141

800.04 (7) (b)

2nd

Lewd or lascivious  
 exhibition; offender 18  
 years of age or older.

142

806.111 (1)

3rd

Possess, manufacture, or  
 dispense fire bomb with  
 intent to damage any  
 structure or property.

143

812.0145 (2) (b)

2nd

Theft from person 65  
 years of age or older;  
 \$10,000 or more but less  
 than \$50,000.

144

812.015 (8)

3rd

Retail theft; property  
 stolen is valued at \$300  
 or more and one or more  
 specified acts.



591-02542-16

2016912c1

145  
146  
147  
148  
149  
150  
151  
152

|                                 |     |  |
|---------------------------------|-----|--|
| 812.019(1)                      | 2nd | Stolen property; dealing in or trafficking in.   |
| 812.131(2)(b)                   | 3rd | Robbery by sudden snatching.   |
| 812.16(2)                       | 3rd | Owning, operating, or conducting a chop shop.  |
| 817.034(4)(a)2.                 | 2nd | Communications fraud, value \$20,000 to \$50,000.  |
| 817.234(11)(b)                  | 2nd | Insurance fraud; property value \$20,000 or more but less than \$100,000.  |
| 817.2341(1),<br>(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. |

591-02542-16

2016912c1

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.

153

817.611

2nd

Traffic in or possess counterfeit credit cards.

154

155

817.625 (2) (b)

2nd

Second or subsequent fraudulent use of scanning device or reencoder.

156

825.1025 (4)

3rd

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

157

827.071 (4)

2nd

Possess with intent to

591-02542-16

2016912c1

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

158

827.071 (5)

3rd

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

159

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.

160

843.01

3rd

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

161

847.0135 (5) (b)

2nd

Lewd or lascivious exhibition using computer; offender 18 years or older.

162

591-02542-16

2016912c1

847.0137  
(2) & (3)

3rd

Transmission of  
pornography by  
electronic device or  
equipment.

163

847.0138  
(2) & (3)

3rd

Transmission of material  
harmful to minors to a  
minor by electronic  
device or equipment.

164

874.05 (1) (b)

2nd

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

165

874.05 (2) (a)

2nd

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

166

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).

167

893.13 (1) (c) 2.

2nd

Sell, manufacture, or

591-02542-16

2016912c1

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.

168

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.

169

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.,

591-02542-16

2016912c1

(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.

170

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.

171

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).

172

893.1351 (1)

3rd

Ownership, lease, or  
 rental for trafficking  
 in or manufacturing of  
 controlled substance.

591-02542-16

2016912c1

173

174

175

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