

1 A bill to be entitled
 2 An act relating to payment card offenses; amending s.
 3 817.625, F.S.; revising definitions; revising
 4 terminology; revising offenses of using a scanning
 5 device or reencoder with the intent to defraud;
 6 prohibiting the use of a skimming device with intent
 7 to defraud; prohibiting the possession, sale, or
 8 delivery of a skimming device; providing criminal
 9 penalties; amending s. 921.0022, F.S.; conforming
 10 provisions to changes made by the act; providing an
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 817.625, Florida Statutes, is amended
 16 to read:

17 817.625 Use of scanning device, skimming device, or
 18 reencoder to defraud; possession of skimming device; penalties.-

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

20 (a)~~(d)~~ "Merchant" means a person who receives from an
 21 authorized user of a payment card, or someone the person
 22 believes to be an authorized user, a payment card or information
 23 from a payment card, or what the person believes to be a payment
 24 card or information from a payment card, as the instrument for
 25 obtaining, purchasing, or receiving goods, services, money, or

26 anything else of value from the person.

27 (b)~~(e)~~ "Payment card" means a credit card, charge card,
28 debit card, or any other card that is issued to an authorized
29 card user and that allows the user to obtain, purchase, or
30 receive goods, services, money, or anything else of value from a
31 merchant.

32 (c)~~(b)~~ "Reencoder" means an electronic device that places
33 encoded information from the computer chip, magnetic strip or
34 stripe, or other storage mechanism of a payment card onto the
35 computer chip, magnetic strip or stripe, or other storage
36 mechanism of a different payment card. The term does not include
37 a skimming device.

38 (d)~~(a)~~ "Scanning device" means a scanner, reader, or any
39 other electronic device that may be ~~is~~ used to access, read,
40 scan, obtain, memorize, or store, temporarily or permanently,
41 information encoded on the computer chip, magnetic strip or
42 stripe, or other storage mechanism of a payment card or from
43 another device that directly reads the information from a
44 payment card. The term does not include a skimming device.

45 (e) "Skimming device" means a self-contained device that:
46 1. Is designed to read and store in the device's internal
47 memory information encoded on the computer chip, magnetic strip
48 or stripe, or other storage mechanism of a payment card or from
49 another device that directly reads the information from a
50 payment card; and

51 2. Is incapable of processing the payment card information
52 for the purpose of obtaining, purchasing, or receiving goods,
53 services, money, or anything else of value from a merchant.

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

57 1. A scanning device or skimming device to access, read,
58 obtain, memorize, or store, temporarily or permanently,
59 information encoded on the computer chip, magnetic strip or
60 stripe, or other storage mechanism of a payment card without the
61 permission of the authorized user of the payment card and with
62 the intent to defraud the authorized user, the issuer of the
63 authorized user's payment card, or a merchant.

64 2. A reencoder to place information encoded on the
65 computer chip, magnetic strip or stripe, or other storage
66 mechanism of a payment card onto the computer chip, magnetic
67 strip or stripe, or other storage mechanism of a different card
68 without the permission of the authorized user of the card from
69 which the information is being reencoded and with the intent to
70 defraud the authorized user, the issuer of the authorized user's
71 payment card, or a merchant.

72 (b) A ~~Any~~ person who violates subparagraph (a)1. or
73 subparagraph (a)2. a second or subsequent time commits a felony
74 of the second degree, punishable as provided in s. 775.082, s.
75 775.083, or s. 775.084.

76 (c) It is a felony of the third degree, punishable as
 77 provided in s. 775.082, s. 775.083, or s. 775.084, for a person
 78 to knowingly possess, sell, or deliver a skimming device. This
 79 paragraph does not apply to the following individuals while
 80 acting within the scope of his or her official duties:

- 81 1. An employee, officer, or agent of:
 82 a. A law enforcement agency or criminal prosecuting
 83 authority for the state or the Federal Government;
 84 b. The state courts system as defined in s. 25.382 or the
 85 federal court system; or
 86 c. An executive branch agency in this state.
 87 2. A financial or retail security investigator employed by
 88 a merchant.

89 (d)-(e) A Any person who commits a violation of this
 90 subsection violates subparagraph (a)1. or subparagraph (a)2.
 91 shall also be subject to the provisions of ss. 932.701-932.7062.

92 Section 2. Paragraphs (d) and (e) of subsection (3) of
 93 section 921.0022, Florida Statutes, are amended to read:

94 921.0022 Criminal Punishment Code; offense severity
 95 ranking chart.—

96 (3) OFFENSE SEVERITY RANKING CHART

97 (d) LEVEL 4

98

Florida	Felony	
Statute	Degree	Description

99	316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
100	499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
101	499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
102	517.07(1)	3rd	Failure to register securities.
103	517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
104	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.

105	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
106	784.075	3rd	Battery on detention or commitment facility staff.
107	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
108	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
109	784.081 (3)	3rd	Battery on specified official or employee.
110	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
111	784.083 (3)	3rd	Battery on code inspector.
112	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or

materials.

113

787.03 (1) 3rd Interference with custody;
wrongly takes minor from
appointed guardian.

114

787.04 (2) 3rd Take, entice, or remove child
beyond state limits with
criminal intent pending custody
proceedings.

115

787.04 (3) 3rd Carrying child beyond state
lines with criminal intent to
avoid producing child at
custody hearing or delivering
to designated person.

116

787.07 3rd Human smuggling.

117

790.115 (1) 3rd Exhibiting firearm or weapon
within 1,000 feet of a school.

118

790.115 (2) (b) 3rd Possessing electric weapon or
device, destructive device, or
other weapon on school

property.

119

790.115 (2) (c) 3rd Possessing firearm on school property.

120

800.04 (7) (c) 3rd Lewd or lascivious exhibition; offender less than 18 years.

121

810.02 (4) (a) 3rd Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.

122

810.02 (4) (b) 3rd Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

123

810.06 3rd Burglary; possession of tools.

124

810.08 (2) (c) 3rd Trespass on property, armed with firearm or dangerous weapon.

125

812.014 (2) (c) 3. 3rd Grand theft, 3rd degree \$10,000

or more but less than \$20,000.

126

812.014 3rd
(2) (c) 4.-10.

Grand theft, 3rd degree, a
will, firearm, motor vehicle,
livestock, etc.

127

812.0195(2) 3rd

Dealing in stolen property by
use of the Internet; property
stolen \$300 or more.

128

817.563(1) 3rd

Sell or deliver substance other
than controlled substance
agreed upon, excluding s.
893.03(5) drugs.

129

817.568(2) (a) 3rd

Fraudulent use of personal
identification information.

130

817.625(2) (a) 3rd

Fraudulent use of scanning
device, skimming device, or
reencoder.

131

817.625(2) (c) 3rd

Possess, sell, or deliver
skimming device.

132

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133	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
134	837.02 (1)	3rd	Perjury in official proceedings.
135	837.021 (1)	3rd	Make contradictory statements in official proceedings.
136	838.022	3rd	Official misconduct.
137	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
138	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Families.
139	843.021	3rd	Possession of a concealed handcuff key by a person in custody.

140	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
141	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
142	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
143	874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
144	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
145	914.14(2)	3rd	Witnesses accepting bribes.
	914.22(1)	3rd	Force, threaten, etc., witness,

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victim, or informant.

146

914.23 (2) 3rd Retaliation against a witness,
victim, or informant, no bodily
injury.

147

918.12 3rd Tampering with jurors.

148

934.215 3rd Use of two-way communications
device to facilitate commission
of a crime.

149

150 (e) LEVEL 5

151

Florida	Felony	
Statute	Degree	Description

152

316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
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153

316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
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154

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

155

322.34 (6)

3rd

Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

156

327.30 (5)

3rd

Vessel accidents involving personal injury; leaving scene.

157

379.365 (2) (c) 1.

3rd

Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in

the commercial harvest of stone crabs while license is suspended or revoked.

158

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

159

379.407 (5) (b) 3. 3rd Possession of 100 or more undersized spiny lobsters.

160

381.0041 (11) (b) 3rd Donate blood, plasma, or organs knowing HIV positive.

161

440.10 (1) (g) 2nd Failure to obtain workers' compensation coverage.

162

440.105 (5) 2nd Unlawful solicitation for the purpose of making workers' compensation claims.

163

440.381 (2) 2nd Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers'

compensation premiums.

164 624.401 (4) (b) 2. 2nd Transacting insurance without a
certificate or authority;
premium collected \$20,000 or
more but less than \$100,000.

165 626.902 (1) (c) 2nd Representing an unauthorized
insurer; repeat offender.

166 790.01 (2) 3rd Carrying a concealed firearm.

167 790.162 2nd Threat to throw or discharge
destructive device.

168 790.163 (1) 2nd False report of bomb,
explosive, weapon of mass
destruction, or use of firearms
in violent manner.

169 790.221 (1) 2nd Possession of short-barreled
shotgun or machine gun.

170 790.23 2nd Felons in possession of
firearms, ammunition, or

electronic weapons or devices.

171

796.05 (1) 2nd Live on earnings of a prostitute; 1st offense.

172

800.04 (6) (c) 3rd Lewd or lascivious conduct; offender less than 18 years of age.

173

800.04 (7) (b) 2nd Lewd or lascivious exhibition; offender 18 years of age or older.

174

806.111 (1) 3rd Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

175

812.0145 (2) (b) 2nd Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

176

812.015 (8) 3rd Retail theft; property stolen is valued at \$300 or more and one or more specified acts.

177	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
178	812.131 (2) (b)	3rd	Robbery by sudden snatching.
179	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
180	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
181	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
182	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.
183	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.

184

817.611 (2) (a) 2nd Traffic in or possess 5 to 14 counterfeit credit cards or related documents.

185

817.625 (2) (b) 2nd Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.

186

825.1025 (4) 3rd Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

187

827.071 (4) 2nd Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

188	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
189	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.
190	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
191	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
192	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
193	847.0138	3rd	Transmission of material

194	(2) & (3)		harmful to minors to a minor by electronic device or equipment.
195	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
196	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
197	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).
198	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.

198

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.

199

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.

200

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.

201

893.13(4)(b) 2nd Use or hire of minor; deliver
 to minor other controlled
 substance.

202

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

203

204 Section 3. This act shall take effect October 1, 2017.