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CS/CS/HB 343

2017 Legislature

1  
 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.; ranking the  
 10 offense of possessing, selling, or delivering a  
 11 skimming device on the offense severity ranking chart;  
 12 conforming provisions to changes made by the act;  
 13 providing an effective date.

14  
 15 Be It Enacted by the Legislature of the State of Florida:

16  
 17 Section 1. Section 817.625, Florida Statutes, is amended  
 18 to read:

19 817.625 Use of scanning device, skimming device, or  
 20 reencoder to defraud; possession of skimming device; penalties.-

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

22 (a) ~~(d)~~ "Merchant" means a person who receives from an  
 23 authorized user of a payment card, or someone the person  
 24 believes to be an authorized user, a payment card or information  
 25 from a payment card, or what the person believes to be a payment

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26 | card or information from a payment card, as the instrument for  
 27 | obtaining, purchasing, or receiving goods, services, money, or  
 28 | anything else of value from the person.

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

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

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

47 | (e) "Skimming device" means a self-contained device that:

- 48 | 1. Is designed to read and store in the device's internal  
 49 | memory information encoded on the computer chip, magnetic strip  
 50 | or stripe, or other storage mechanism of a payment card or from

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51 another device that directly reads the information from a  
 52 payment card; and

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

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

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

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

74 (b) A ~~Any~~ person who violates subparagraph (a)1. or  
 75 subparagraph (a)2. a second or subsequent time commits a felony

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76 | of the second degree, punishable as provided in s. 775.082, s.  
77 | 775.083, or s. 775.084.

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

83 | 1. An employee, officer, or agent of:

84 | a. A law enforcement agency or criminal prosecuting  
85 | authority for the state or the Federal Government;

86 | b. The state courts system as defined in s. 25.382 or the  
87 | federal court system; or

88 | c. An executive branch agency in this state.

89 | 2. A financial or retail security investigator employed by  
90 | a merchant.

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

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

96 | 921.0022 Criminal Punishment Code; offense severity  
97 | ranking chart.—

98 | (3) OFFENSE SEVERITY RANKING CHART

99 | (d) LEVEL 4

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	Florida Statute	Felony Degree	Description
101	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.
102	499.0051 (1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
103	499.0051 (5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
104	517.07 (1)	3rd	Failure to register securities.
105	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
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107	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
108	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
109	784.075	3rd	Battery on detention or commitment facility staff.
110	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
111	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
112	784.081 (3)	3rd	Battery on specified official or employee.
113	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
114	784.083 (3)	3rd	Battery on code inspector.
	784.085	3rd	Battery of child by throwing,

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tossing, projecting, or  
expelling certain fluids or  
materials.

115

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

116

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

117

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

118

787.07 3rd Human smuggling.

119

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

120

790.115(2)(b) 3rd Possessing electric weapon or

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device, destructive device, or  
other weapon on school  
property.

121

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

122

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

123

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

124

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

125

810.06 3rd Burglary; possession of tools.

126

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

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127	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
128	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
129	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
130	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03 (5) drugs.
131	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
132	817.625 (2) (a)	3rd	Fraudulent use of scanning device, <u>skimming device</u> , or reencoder.
133	<u>817.625 (2) (c)</u>	<u>3rd</u>	<u>Possess, sell, or deliver</u>

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skimming device.

134

828.125 (1) 2nd Kill, maim, or cause great  
bodily harm or permanent  
breeding disability to any  
registered horse or cattle.

135

837.02 (1) 3rd Perjury in official  
proceedings.

136

837.021 (1) 3rd Make contradictory statements  
in official proceedings.

137

838.022 3rd Official misconduct.

138

839.13 (2) (a) 3rd Falsifying records of an  
individual in the care and  
custody of a state agency.

139

839.13 (2) (c) 3rd Falsifying records of the  
Department of Children and  
Families.

140

843.021 3rd Possession of a concealed  
handcuff key by a person in

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custody.

141

843.025 3rd Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.

142

843.15(1)(a) 3rd Failure to appear while on bail for felony (bond estreature or bond jumping).

143

847.0135(5)(c) 3rd Lewd or lascivious exhibition using computer; offender less than 18 years.

144

874.05(1)(a) 3rd Encouraging or recruiting another to join a criminal gang.

145

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).

146

914.14(2) 3rd Witnesses accepting bribes.

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147	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
148	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
149	918.12	3rd	Tampering with jurors.
150	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
151			
152	(e) LEVEL 5		
153			
	Florida Statute	Felony Degree	Description
154	316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
155	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.

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156	316.80 (2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
157	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
158	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
159	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,

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counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

160

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

161

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

162

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

163

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

164

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

165

440.381 (2) 2nd Submission of false, misleading, or incomplete



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173	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
174	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
175	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
176	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
177	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
178	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

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is valued at \$300 or more and  
one or more specified acts.

179

812.019 (1) 2nd Stolen property; dealing in or  
trafficking in.

180

812.131 (2) (b) 3rd Robbery by sudden snatching.

181

812.16 (2) 3rd Owning, operating, or  
conducting a chop shop.

182

817.034 (4) (a) 2. 2nd Communications fraud, value  
\$20,000 to \$50,000.

183

817.234 (11) (b) 2nd Insurance fraud; property value  
\$20,000 or more but less than  
\$100,000.

184

817.2341 (1), 3rd Filing false financial  
(2) (a) & statements, making false  
(3) (a) entries of material fact or  
false statements regarding  
property values relating to the  
solvency of an insuring entity.

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186	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.
187	817.611 (2) (a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
188	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device, <u>skimming device</u> , or reencoder.
189	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which

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includes sexual conduct by a child.

190

827.071 (5)

3rd

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

191

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.

192

843.01

3rd

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

193

847.0135 (5) (b)

2nd

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

194

847.0137  
(2) & (3)

3rd

Transmission of pornography by electronic device or equipment.

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195	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
196	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
197	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
198	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).
199	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.,

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(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.

200

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.

201

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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202

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.

203

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

204

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

205

206

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