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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
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	.	
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The Committee on Criminal Justice (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

817.625 Use of scanning device, skimming device, or
reencoder to defraud; possession of skimming device; penalties.—

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

(d)~~(a)~~ "Scanning device" means a scanner, reader, or any



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11 other electronic device that may be ~~is~~ used to access, read,
12 scan, obtain, memorize, or store, temporarily or permanently,
13 information encoded on the computer chip, magnetic strip or
14 stripe, or other storage mechanism of a payment card or from
15 another device that directly reads the information from a
16 payment card. The term does not include a skimming device.

17 (c) ~~(b)~~ "Reencoder" means an electronic device that places
18 encoded information from the computer chip, magnetic strip or
19 stripe, or other storage mechanism of a payment card onto the
20 computer chip, magnetic strip or stripe, or other storage
21 mechanism of a different payment card. The term does not include
22 a skimming device.

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

28 (a) ~~(d)~~ "Merchant" means a person who receives from an
29 authorized user of a payment card, or someone the person
30 believes to be an authorized user, a payment card or information
31 from a payment card, or what the person believes to be a payment
32 card or information from a payment card, as the instrument for
33 obtaining, purchasing, or receiving goods, services, money, or
34 anything else of value from the person.

35 (e) "Skimming device" means a self-contained device that:
36 1. Is designed to read and store in the device's internal
37 memory information encoded on the computer chip, magnetic strip
38 or stripe, or other storage mechanism of a payment card or from
39 another device that directly reads the information from a



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40 payment card; and

41 2. Is incapable of processing the payment card information
42 stored under subparagraph 1. for the purpose of obtaining,
43 purchasing, or receiving goods, services, money, or anything
44 else of value from a merchant.

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

48 1. A scanning device or skimming device to access, read,
49 obtain, memorize, or store, temporarily or permanently,
50 information encoded on the computer chip, magnetic strip or
51 stripe, or other storage mechanism of a payment card without the
52 permission of the authorized user of the payment card and with
53 the intent to defraud the authorized user, the issuer of the
54 authorized user's payment card, or a merchant.

55 2. A reencoder to place information encoded on the computer
56 chip, magnetic strip or stripe, or other storage mechanism of a
57 payment card onto the computer chip, magnetic strip or stripe,
58 or other storage mechanism of a different card without the
59 permission of the authorized user of the card from which the
60 information is being reencoded and with the intent to defraud
61 the authorized user, the issuer of the authorized user's payment
62 card, or a merchant.

63 (b) A ~~Any~~ person who violates subparagraph (a)1. or
64 subparagraph (a)2. a second or subsequent time commits a felony
65 of the second degree, punishable as provided in s. 775.082, s.
66 775.083, or s. 775.084.

67 (c) It is a felony of the third degree, punishable as
68 provided in s. 775.082, s. 775.083, or s. 775.084, for a person



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69 to knowingly possess, sell, or deliver a skimming device. This
70 paragraph does not apply to the following individuals while
71 acting within the scope of their official duties:

72 1. An employee, officer, or agent of:

73 a. A law enforcement agency or criminal prosecuting
74 authority for the state or the federal government;

75 b. The state courts system as defined in s. 25.382 or the
76 federal court system; or

77 c. An executive branch agency in this state.

78 2. A financial or retail security investigator employed by
79 a merchant.

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

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

85 921.0022 Criminal Punishment Code; offense severity ranking
86 chart.-

87 (3) OFFENSE SEVERITY RANKING CHART

88 (d) LEVEL 4

89

Florida Statute	Felony Degree	Description
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90

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
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91			siren and lights activated.
	499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
92			
	499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
93			
	517.07(1)	3rd	Failure to register securities.
94			
	517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
95			
	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
96			
	784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
97			
	784.075	3rd	Battery on detention or commitment facility staff.
98			
	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.



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99	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
100	784.081(3)	3rd	Battery on specified official or employee.
101	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
102	784.083(3)	3rd	Battery on code inspector.
103	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
104	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
105	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
106	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at



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custody hearing or delivering
to designated person.

107

787.07 3rd Human smuggling.

108

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

109

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

110

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

111

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

112

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

113

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

114



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115	810.06	3rd	Burglary; possession of tools.
116	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
117	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
118	812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
119	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
120	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
121	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
122	817.625(2)(a)	3rd	Fraudulent use of scanning device, <u>skimming device</u> , or reencoder.



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123	<u>817.625(2)(c)</u>	<u>3rd</u>	<u>Possession, sale, or delivery of skimming device.</u>
124	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
125	837.02(1)	3rd	Perjury in official proceedings.
126	837.021(1)	3rd	Make contradictory statements in official proceedings.
127	838.022	3rd	Official misconduct.
128	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
129	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
130	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
	843.025	3rd	Deprive law enforcement,



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correctional, or correctional
probation officer of means of
protection or communication.

131

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

132

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

133

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

134

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).

135

914.14(2) 3rd Witnesses accepting bribes.

136

914.22(1) 3rd Force, threaten, etc., witness,
victim, or informant.

137

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



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138

918.12 3rd Tampering with jurors.

139

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

140

141

142 (e) LEVEL 5

143

Florida Statute	Felony Degree	Description
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144

316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
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145

316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
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146

316.80 (2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
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147

322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
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148

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

149

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.

150

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

151

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

152

381.0041(11)(b) 3rd Donate blood, plasma, or organs



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knowing HIV positive.

153

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

154

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

155

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

156

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

157

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

158

790.01(2) 3rd Carrying a concealed firearm.

159

790.162 2nd Threat to throw or discharge destructive device.

160

790.163(1) 2nd False report of bomb,



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explosive, weapon of mass
destruction, or use of firearms
in violent manner.

161

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

162

790.23 2nd Felons in possession of
firearms, ammunition, or
electronic weapons or devices.

163

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

164

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

165

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

166

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

167

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



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but less than \$50,000.

168

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

169

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

170

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

171

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

172

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

173

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

174

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

175

817.568(2)(b) 2nd Fraudulent use of personal



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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.

176

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

177

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

178

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

179

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

180

827.071(5) 3rd Possess, control, or
intentionally view any



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

181

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.

182

843.01 3rd Resist officer with violence to person; resist arrest with violence.

183

847.0135(5)(b) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

184

847.0137
(2) & (3) 3rd Transmission of pornography by electronic device or equipment.

185

847.0138
(2) & (3) 3rd Transmission of material harmful to minors to a minor by electronic device or equipment.

186

874.05(1)(b) 2nd Encouraging or recruiting another to join a criminal gang; second or subsequent offense.



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187

874.05(2)(a) 2nd Encouraging or recruiting
person under 13 years of age to
join a criminal gang.

188

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).

189

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.

190

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



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university.

191

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.

192

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.

193

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

194

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

195

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

198

199 ===== T I T L E A M E N D M E N T =====

200 And the title is amended as follows:

201 Delete everything before the enacting clause

202 and insert:

203 A bill to be entitled

204 An act relating to payment card offenses; amending s.
205 817.625, F.S.; revising definitions; revising
206 terminology; revising the offenses of using a scanning
207 device or reencoder with the intent to defraud;
208 prohibiting the use of a skimming device with intent
209 to defraud; prohibiting the possession, sale, or
210 delivery of a skimming device; providing criminal
211 penalties; amending s. 921.0022, F.S.; ranking the
212 offense of possessing, selling, or delivering a
213 skimming device on level 4 of the offense severity
214 ranking chart; conforming provisions to changes made
215 by the act; providing an effective date.