

By Senator Rodriguez

37-00909-17

2017766\_\_

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; prohibiting the possession of a scanning  
5           device with intent to defraud; providing criminal  
6           penalties; specifying prima facie evidence of intent  
7           to defraud; reenacting ss. 525.07(10)(c) and  
8           921.0022(3)(d), F.S., relating to the definition of  
9           the term "scanning device" and level 4 of the offense  
10          severity ranking chart, respectively, to incorporate  
11          the amendment made to s. 817.625, F.S., in references  
12          thereto; providing an effective date.

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

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

18           817.625 Use of scanning device or reencoder to defraud;  
19          possession of scanning device; penalties.—

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

21           (a) "Scanning device" means a scanner, reader, or any other  
22          electronic device that may be ~~is~~ used to access, read, scan,  
23          obtain, memorize, or store, temporarily or permanently,  
24          information encoded on the computer chip, magnetic strip or  
25          stripe, or other storage mechanism of a payment card, or from  
26          another device that directly reads the information from the  
27          card.

28           (b) "Reencoder" means an electronic device that places  
29          encoded information from the computer chip, magnetic strip or  
30          stripe, or other storage mechanism of a payment card onto the  
31          computer chip, magnetic strip or stripe, or other storage  
32          mechanism of a different payment card.

37-00909-17

2017766\_\_

33 (c) "Payment card" means a credit card, charge card, debit  
34 card, or any other card that is issued to an authorized card  
35 user and that allows the user to obtain, purchase, or receive  
36 goods, services, money, or anything else of value from a  
37 merchant.

38 (d) "Merchant" means a person who receives from an  
39 authorized user of a payment card, or someone the person  
40 believes to be an authorized user, a payment card or information  
41 from a payment card, or what the person believes to be a payment  
42 card or information from a payment card, as the instrument for  
43 obtaining, purchasing, or receiving goods, services, money, or  
44 anything else of value from the person.

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

37-00909-17

2017766\_\_

62 card, or a merchant.

63 (b) 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 (3) (a) A person who possesses, sells, or delivers a  
68 scanning device knowingly and with the intent to defraud an  
69 authorized user of a payment card, the issuer of a payment card,  
70 or a merchant commits a felony of the third degree, punishable  
71 as provided in s. 775.082, s. 775.083, or s. 775.084.

72 (b)1. For the purposes of this subsection, it shall be  
73 prima facie evidence of knowledge and intent to defraud if the  
74 person possessing the scanning device is not:

75 a. A law enforcement officer, an authorized representative  
76 of a law enforcement officer, an officer of the Department of  
77 Agriculture and Consumer Services, a state attorney, a financial  
78 security investigator employed by a merchant or financial  
79 institution, or an authorized vendor to any of the  
80 aforementioned authorized investigative agencies.

81 b. A person lawfully reporting the scanning device to a law  
82 enforcement officer, an officer of the Department of Agriculture  
83 and Consumer Services, a state attorney, a financial security  
84 investigator employed by a merchant or financial institution, or  
85 an authorized vendor to any of the aforementioned authorized  
86 investigative agencies.

87 2. Once prima facie evidence of knowledge and the intent to  
88 defraud has been established, no additional identification of  
89 payment card data, payment card users, payment card issuers, or  
90 payment card merchants is required.

37-00909-17

2017766\_\_

91 (4)~~(e)~~ Any person who violates subparagraph (2) (a)1., ~~(a)1.~~  
 92 ~~or~~ subparagraph (2) (a)2., or subsection (3) ~~(a)2.~~ shall also be  
 93 subject to ~~the provisions of~~ ss. 932.701-932.7062.

94 Section 2. For the purpose of incorporating the amendment  
 95 made by this act to section 817.625, Florida Statutes, in a  
 96 reference thereto, paragraph (c) of subsection (10) of section  
 97 525.07, Florida Statutes, is reenacted to read:

98 525.07 Powers and duties of department; inspections;  
 99 unlawful acts.—

100 (10)

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

104 Section 3. For the purpose of incorporating the amendment  
 105 made by this act to section 817.625, Florida Statutes, in a  
 106 reference thereto, paragraph (d) of subsection (3) of section  
 107 921.0022, Florida Statutes, is reenacted to read:

108 921.0022 Criminal Punishment Code; offense severity ranking  
 109 chart.—

110 (3) OFFENSE SEVERITY RANKING CHART

111 (d) LEVEL 4

112

Florida	Felony	
Statute	Degree	Description
316.1935 (3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude

113

37-00909-17

2017766\_\_

law enforcement officer  
 who is in a patrol  
 vehicle with siren and  
 lights activated.

114

499.0051 (1)

3rd

Failure to maintain or  
 deliver transaction  
 history, transaction  
 information, or  
 transaction statements.

115

499.0051 (5)

2nd

Knowing sale or  
 delivery, or possession  
 with intent to sell,  
 contraband prescription  
 drugs.

116

517.07 (1)

3rd

Failure to register  
 securities.

117

517.12 (1)

3rd

Failure of dealer,  
 associated person, or  
 issuer of securities to  
 register.

118

784.07 (2) (b)

3rd

Battery of law  
 enforcement officer,  
 firefighter, etc.

119

37-00909-17 2017766\_\_

120	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
121	784.075	3rd	Battery on detention or commitment facility staff.
122	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
123	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
124	784.081 (3)	3rd	Battery on specified official or employee.
125	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
126	784.083 (3)	3rd	Battery on code inspector.
	784.085	3rd	Battery of child by throwing, tossing,

37-00909-17

2017766\_\_

projecting, or expelling  
certain fluids or  
materials.

127

787.03(1)

3rd

Interference with  
custody; wrongly takes  
minor from appointed  
guardian.

128

787.04(2)

3rd

Take, entice, or remove  
child beyond state  
limits with criminal  
intent pending custody  
proceedings.

129

787.04(3)

3rd

Carrying child beyond  
state lines with  
criminal intent to avoid  
producing child at  
custody hearing or  
delivering to designated  
person.

130

787.07

3rd

Human smuggling.

131

790.115(1)

3rd

Exhibiting firearm or  
weapon within 1,000 feet  
of a school.

132

37-00909-17

2017766\_\_

133	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
134	790.115 (2) (c)	3rd	Possessing firearm on school property.
135	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
136	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
137	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
138	810.06	3rd	Burglary; possession of tools.
	810.08 (2) (c)	3rd	Trespass on property,



37-00909-17

2017766\_\_

armed with firearm or  
dangerous weapon.

139

812.014 (2) (c) 3.

3rd

Grand theft, 3rd degree  
\$10,000 or more but less  
than \$20,000.

140

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

3rd

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

141

812.0195 (2)

3rd

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

142

817.563 (1)

3rd

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

143

817.568 (2) (a)

3rd

Fraudulent use of  
personal identification  
information.

144

817.625 (2) (a)

3rd

Fraudulent use of  
scanning device or  
reencoder.

37-00909-17

2017766\_\_

145

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

146

837.02 (1) 3rd Perjury in official proceedings.

147

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

148

838.022 3rd Official misconduct.

149

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

150

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

151

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

37-00909-17

2017766\_\_

152

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

153

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

154

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

155

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

156

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).

157

914.14(2) 3rd Witnesses accepting

37-00909-17

2017766\_\_

bribes.

158

914.22 (1)

3rd

Force, threaten, etc.,  
witness, victim, or  
informant.

159

914.23 (2)

3rd

Retaliation against a  
witness, victim, or  
informant, no bodily  
injury.

160

918.12

3rd

Tampering with jurors.

161

934.215

3rd

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

162

163

Section 4. This act shall take effect July 1, 2017.