

By the Committee on Criminal Justice; and Senator Rodriguez

591-03355-17

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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 the 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 level 4 of the offense severity
12 ranking chart; conforming provisions to changes made
13 by the act; 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 to
18 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 (d)-(a) "Scanning device" means a scanner, reader, or any
23 other electronic device that may be ~~is~~ used to access, read,
24 scan, obtain, memorize, or store, temporarily or permanently,
25 information encoded on the computer chip, magnetic strip or
26 stripe, or other storage mechanism of a payment card or from
27 another device that directly reads the information from a
28 payment card. The term does not include a skimming device.

29 (c)-(b) "Reencoder" means an electronic device that places

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30 encoded information from the computer chip, magnetic strip or
31 stripe, or other storage mechanism of a payment card onto the
32 computer chip, magnetic strip or stripe, or other storage
33 mechanism of a different payment card. The term does not include
34 a skimming device.

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

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

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
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 stored under subparagraph 1. for the purpose of obtaining,
55 purchasing, or receiving goods, services, money, or anything
56 else of value from a merchant.

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

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59 to use:

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

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

75 (b) A ~~Any~~ person who violates subparagraph (a)1. or
76 subparagraph (a)2. a second or subsequent time commits a felony
77 of the second degree, punishable as provided in s. 775.082, s.
78 775.083, or s. 775.084.

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

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

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

87 b. The state courts system as defined in s. 25.382 or the

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88 federal court system; or

89 c. An executive branch agency in this state.

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

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

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

97 921.0022 Criminal Punishment Code; offense severity ranking
 98 chart.-

99 (3) OFFENSE SEVERITY RANKING CHART

100 (d) LEVEL 4

101

Florida Statute	Felony Degree	Description
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.
499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.

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105	499.0051 (5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
106	517.07 (1)	3rd	Failure to register securities.
107	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
108	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
109	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
110	784.075	3rd	Battery on detention or commitment facility staff.
111	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
112	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
113	784.081 (3)	3rd	Battery on specified official or employee.

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114

784.082 (3) 3rd Battery by detained person on visitor or other detainee.

115

784.083 (3) 3rd Battery on code inspector.

116

784.085 3rd Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.

117

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

118

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

119

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

120

787.07 3rd Human smuggling.

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

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121

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

122

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

123

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

124

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

125

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

126

810.06 3rd Burglary; possession of tools.

127

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

128

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

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or more but less than \$20,000.

129

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

3rd

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

130

812.0195 (2)

3rd

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

131

817.563 (1)

3rd

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

132

817.568 (2) (a)

3rd

Fraudulent use of personal identification information.

133

817.625 (2) (a)

3rd

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

134

817.625 (2) (c)

3rd

Possession, sale, or delivery of skimming device.

135

828.125 (1)

2nd

Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

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136

837.02 (1) 3rd Perjury in official proceedings.

137

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

138

838.022 3rd Official misconduct.

139

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

140

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

141

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

142

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

143

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

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144

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

145

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

146

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).

147

914.14 (2) 3rd Witnesses accepting bribes.

148

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

149

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

150

918.12 3rd Tampering with jurors.

151

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

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153 (e) LEVEL 5

154

Florida Statute	Felony Degree	Description
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155

316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
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156

316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
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157

316.80 (2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
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158

322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
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159

327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
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160

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
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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.

161

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

162

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

163

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

164

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

165

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

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

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

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

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

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

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

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

- 790.23 2nd Felons in possession of

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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.

179

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

180

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

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181

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

182

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

183

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

184

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

185

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.

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.

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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, skimming device, or reencoder.

189

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

190

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

191

827.071(5) 3rd Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.

192

839.13(2)(b) 2nd Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or

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death.

193

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

194

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

195

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

196

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

197

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

198

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

199

893.13 (1) (a) 1. 2nd Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d),

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(2) (a), (2) (b), or (2) (c) 4.
drugs).

200

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.

201

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.

202

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.,

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(2)(c)9., (3), or (4) within
 1,000 feet of property used for
 religious services or a
 specified business site.

203

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.

204

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

205

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

206

207

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