

1 A bill to be entitled
 2 An act relating to fraudulent practices; amending s.
 3 817.58, F.S.; redefining the terms "cardholder,"
 4 "credit card," and "expired credit card"; amending s.
 5 817.60, F.S.; providing applicability; conforming
 6 terminology; amending s. 817.625, F.S.; deleting the
 7 term "payment card"; conforming terminology; amending
 8 s. 525.07, F.S.; conforming provisions to changes made
 9 by the act; providing an effective date.

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 11 Be It Enacted by the Legislature of the State of Florida:

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 13 Section 1. Subsections (2), (4), and (5) of section
 14 817.58, Florida Statutes, are amended to read:

15 817.58 Definitions.—As used in ss. 817.57–817.685:

16 (2) "Cardholder" means the person or organization ~~named on~~
 17 ~~the face of a credit card~~ to whom or for whose benefit the
 18 credit card is issued by an issuer, or any other authorized card
 19 user.

20 (4) "Credit card" means any instrument or device, whether
 21 known as a credit card, credit plate, bank service card, banking
 22 card, check guarantee card, electronic benefits transfer (EBT)
 23 card, ~~or~~ debit card, or gift certificate or by any other name,
 24 issued with or without fee by an issuer for the use of the
 25 cardholder in obtaining money, goods, services, or anything else

26 | of value ~~on credit~~ or for use in an automated banking device to
 27 | obtain any of the services offered through the device.

28 | (5) "Expired credit card" means a credit card that ~~which~~
 29 | is no longer valid because the term shown on it, if any, has
 30 | elapsed.

31 | Section 2. Subsections (3), (5), and (8) of section
 32 | 817.60, Florida Statutes, are amended to read:

33 | 817.60 Theft; obtaining credit card through fraudulent
 34 | means.—

35 | (3) PURCHASE OR SALE OF CREDIT CARD OF ANOTHER.—A person
 36 | other than the issuer who sells a credit card or a person who
 37 | buys a credit card from a person other than the issuer violates
 38 | this subsection and is subject to the penalties set forth in s.
 39 | 817.67(1). However, it is not unlawful under this subsection for
 40 | a person other than the issuer to purchase or sell a gift
 41 | certificate, as defined in s. 501.95.

42 | (5) DEALING IN CREDIT CARDS OF ANOTHER.—A person other
 43 | than the issuer who, during any 12-month period, receives two or
 44 | more credit cards that ~~issued in the name or names of different~~
 45 | ~~cardholders, which cards~~ he or she has reason to know were taken
 46 | or retained under circumstances that ~~which~~ constitute credit
 47 | card theft or a violation of this part, violates this subsection
 48 | and is subject to the penalties set forth in s. 817.67(2).

49 | (8) UNLAWFUL POSSESSION OF A STOLEN CREDIT ~~OR DEBIT~~ CARD.—
 50 | A person who knowingly possesses, receives, or retains custody

51 of a credit ~~or debit~~ card that has been taken from the
52 possession, custody, or control of another without the
53 cardholder's consent and with the intent to impede the recovery
54 of the credit ~~or debit~~ card by the cardholder commits unlawful
55 possession of a stolen credit ~~or debit~~ card and is subject to
56 the penalties set forth in s. 817.67(2). It is not a violation
57 of this subsection for a retailer or retail employee, in the
58 ordinary course of business, to possess, receive, or return a
59 credit card ~~or debit card~~ that the retailer or retail employee
60 does not know was stolen or to possess, receive, or retain a
61 credit card ~~or debit card~~ that the retailer or retail employee
62 knows is stolen for the purpose of an investigation into the
63 circumstances regarding the theft of the card or its possible
64 unlawful use.

65 Section 3. Subsection (1) and paragraph (a) of subsection
66 (2) of section 817.625, Florida Statutes, are amended, and
67 paragraph (b) of subsection (2) of that section is republished,
68 to read:

69 817.625 Use of scanning device, skimming device, or
70 reencoder to defraud; possession of skimming device; penalties.-

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

72 (a) "Merchant" means a person who receives from an
73 authorized user of a credit payment card, or someone the person
74 believes to be an authorized user, a credit payment card or
75 information from a credit payment card, or what the person

76 | believes to be a credit ~~payment~~ card or information from a
77 | credit ~~payment~~ card, as the instrument for obtaining,
78 | purchasing, or receiving goods, services, money, or anything
79 | else of value from the person.

80 | (b) ~~"Payment card" means a credit card, charge card, debit~~
81 | ~~card, or any other card that is issued to an authorized card~~
82 | ~~user and that allows the user to obtain, purchase, or receive~~
83 | ~~goods, services, money, or anything else of value from a~~
84 | ~~merchant.~~

85 | ~~(e)~~ "Reencoder" means an electronic device that places
86 | encoded information from the computer chip, magnetic strip or
87 | stripe, or other storage mechanism of a credit ~~payment~~ card onto
88 | the computer chip, magnetic strip or stripe, or other storage
89 | mechanism of a different credit ~~payment~~ card. The term does not
90 | include a skimming device.

91 | ~~(c)~~ ~~(d)~~ "Scanning device" means a scanner, reader, or any
92 | other electronic device that may be used to access, read, scan,
93 | obtain, memorize, or store, temporarily or permanently,
94 | information encoded on the computer chip, magnetic strip or
95 | stripe, or other storage mechanism of a credit ~~payment~~ card or
96 | from another device that directly reads the information from a
97 | credit ~~payment~~ card. The term does not include a skimming
98 | device.

99 | ~~(d)~~ ~~(e)~~ "Skimming device" means a self-contained device
100 | that:

101 1. Is designed to read and store in the device's internal
102 memory information encoded on the computer chip, magnetic strip
103 or stripe, or other storage mechanism of a credit ~~payment~~ card
104 or from another device that directly reads the information from
105 a credit ~~payment~~ card; and

106 2. Is incapable of processing the credit ~~payment~~ card
107 information for the purpose of obtaining, purchasing, or
108 receiving goods, services, money, or anything else of value from
109 a merchant.

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

113 1. A scanning device or skimming device to access, read,
114 obtain, memorize, or store, temporarily or permanently,
115 information encoded on the computer chip, magnetic strip or
116 stripe, or other storage mechanism of a credit ~~payment~~ card
117 without the permission of the authorized user of the credit
118 ~~payment~~ card and with the intent to defraud the authorized user,
119 the issuer of the authorized user's credit ~~payment~~ card, or a
120 merchant.

121 2. A reencoder to place information encoded on the
122 computer chip, magnetic strip or stripe, or other storage
123 mechanism of a credit ~~payment~~ card onto the computer chip,
124 magnetic strip or stripe, or other storage mechanism of a
125 different card without the permission of the authorized user of

126 the card from which the information is being reencoded and with
127 the intent to defraud the authorized user, the issuer of the
128 authorized user's credit ~~payment~~ card, or a merchant.

129 (b) A person who violates subparagraph (a)1. or
130 subparagraph (a)2. a second or subsequent time commits a felony
131 of the second degree, punishable as provided in s. 775.082, s.
132 775.083, or s. 775.084.

133 Section 4. Paragraphs (a), (c), and (e) of subsection (10)
134 of section 525.07, Florida Statutes, are amended to read:

135 525.07 Powers and duties of department; inspections;
136 unlawful acts.—

137 (10) (a) Each person who owns or manages a retail petroleum
138 fuel measuring device shall have affixed to or installed onto
139 the measuring device a security measure to restrict the
140 unauthorized access of customer credit ~~payment~~ card information.
141 The security measure must include one or more of the following:

142 1. The placement of pressure-sensitive security tape over
143 the panel opening that leads to the scanning device for the
144 retail petroleum fuel measuring device in a manner that will
145 restrict the unauthorized opening of the panel.

146 2. A device or system that will render the retail
147 petroleum fuel measuring device or the scanning device in the
148 measuring device inoperable if there is an unauthorized opening
149 of the panel.

150 3. A device or system that encrypts the customer credit

151 ~~payment~~ card information in the scanning device.

152 4. Another security measure approved by the department.

153 (c) For purposes of this subsection, the term: ~~terms~~

154 1. "Credit card" has the same meaning as in s. 817.58.

155 2. "Scanning device" and "skimming device" ~~"payment card"~~

156 have the same meanings as ~~defined~~ in s. 817.625.

157 (e) The department may seize without warrant any skimming
 158 device, ~~as defined in s. 817.625,~~ for use as evidence.

159 Section 5. This act shall take effect October 1, 2020.