

By Senator Berman

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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 817.58,  
 14 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~~ is  
 29 no longer valid because the term shown on it, if any, has

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30 elapsed.

31 Section 2. Subsections (3), (5), and (8) of section 817.60,  
32 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 than  
43 the issuer who, during any 12-month period, receives two or more  
44 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.—A  
50 person who knowingly possesses, receives, or retains custody of  
51 a credit ~~or debit~~ card that has been taken from the possession,  
52 custody, or control of another without the cardholder's consent  
53 and with the intent to impede the recovery of the credit ~~or~~  
54 ~~debit~~ card by the cardholder commits unlawful possession of a  
55 stolen credit ~~or debit~~ card and is subject to the penalties set  
56 forth in s. 817.67(2). It is not a violation of this subsection  
57 for a retailer or retail employee, in the ordinary course of  
58 business, to possess, receive, or return a credit card ~~or debit~~

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59 ~~card~~ that the retailer or retail employee does not know was  
60 stolen or to possess, receive, or retain a credit card ~~or debit~~  
61 ~~card~~ that the retailer or retail employee knows is stolen for  
62 the purpose of an investigation into the circumstances regarding  
63 the theft of the card or its possible unlawful use.

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

68 817.625 Use of scanning device, skimming device, or  
69 reencoder to defraud; possession of skimming device; penalties.-

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

71 (a) "Merchant" means a person who receives from an  
72 authorized user of a credit payment card, or someone the person  
73 believes to be an authorized user, a credit payment card or  
74 information from a credit payment card, or what the person  
75 believes to be a credit payment card or information from a  
76 credit payment card, as the instrument for obtaining,  
77 purchasing, or receiving goods, services, money, or anything  
78 else of value from the person.

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

84 (c) "Reencoder" means an electronic device that places  
85 encoded information from the computer chip, magnetic strip or  
86 stripe, or other storage mechanism of a credit payment card onto  
87 the computer chip, magnetic strip or stripe, or other storage

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88 mechanism of a different credit ~~payment~~ card. The term does not  
89 include a skimming device.

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

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

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

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

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

112 1. A scanning device or skimming device to access, read,  
113 obtain, memorize, or store, temporarily or permanently,  
114 information encoded on the computer chip, magnetic strip or  
115 stripe, or other storage mechanism of a credit ~~payment~~ card  
116 without the permission of the authorized user of the credit

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117 ~~payment~~ card and with the intent to defraud the authorized user,  
118 the issuer of the authorized user's credit ~~payment~~ card, or a  
119 merchant.

120 2. A reencoder to place information encoded on the computer  
121 chip, magnetic strip or stripe, or other storage mechanism of a  
122 credit ~~payment~~ card onto the computer chip, magnetic strip or  
123 stripe, or other storage mechanism of a different card without  
124 the permission of the authorized user of the card from which the  
125 information is being reencoded and with the intent to defraud  
126 the authorized user, the issuer of the authorized user's credit  
127 ~~payment~~ card, or a merchant.

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

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

134 525.07 Powers and duties of department; inspections;  
135 unlawful acts.—

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

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

145 2. A device or system that will render the retail petroleum

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146 fuel measuring device or the scanning device in the measuring  
147 device inoperable if there is an unauthorized opening of the  
148 panel.

149 3. A device or system that encrypts the customer credit  
150 ~~payment~~ card information in the scanning device.

151 4. Another security measure approved by the department.

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

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

154 2. "Scanning device" and "skimming device" ~~"payment card"~~  
155 have the same meanings as ~~defined~~ in s. 817.625.

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

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