

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 966, Page 29, Section 221.105, Line 48, by inserting after all of said section and
3 line the following:
4

5 "407.431. The attorney general shall have all powers, rights, and duties regarding violations
6 of sections 407.430 to 407.436 as are provided in sections 407.010 to 407.130, in addition to
7 rulemaking authority under section 407.145.

8 407.432. As used in sections 407.430 to 407.436, the following terms shall mean:

9 (1) "Acquirer", a business organization, financial institution, or an agent of a business
10 organization or financial institution that authorizes a merchant to accept payment by credit card for
11 merchandise;

12 (2) "Cardholder", the person's name on the face of a credit card to whom or for whose
13 benefit the credit card is issued by an issuer[,] or any agent, authorized signatory, or employee of
14 such person;

15 (3) "Chip", an integrated circuit imbedded in a card that stores data so that the card may use
16 the EMV payment method for transactions;

17 (4) "Contactless payment", any payment method that uses a contactless smart card, a near
18 field communication (NFC) antenna, radio-frequency identification (RFID) technology, or other
19 method to remotely communicate data to a scanning device for transactions;

20 (5) "Counterfeit credit card", any credit card which is fictitious, altered, or forged, any false
21 representation, depiction, facsimile or component of a credit card, or any credit card which is stolen,
22 obtained as part of a scheme to defraud, or otherwise unlawfully obtained, and which may or may
23 not be embossed with account information or a company logo;

24 [(4)] (6) "Credit card" [or "debit card"], any instrument or device, whether known as a
25 credit card, credit plate, bank service card, banking card, check guarantee card, or debit card or by
26 any other name, that is issued with or without a fee by an issuer for the use of the cardholder's
27 obtaining money or merchandise on credit[,] or by transferring payment from the cardholder's
28 checking account or for use in an automated banking device to obtain any of the services offered
29 through the device. The presentation of a credit card account number is deemed to be the
30 presentation of a credit card. "Credit card" shall include credit or debit cards whose information is
31 stored in a digital wallet for use in in-app purchases or contactless payments;

32 [(5)] (7) "Expired credit card", a credit card for which the expiration date shown on it has
33 passed;

34 [(6)] (8) "Issuer", the business organization [or] , financial institution, or [its] duly
35 authorized agent[, which] thereof that issues a credit card;

36 [(7)] (9) "Merchandise", any objects, wares, goods, commodities, intangibles, real estate,

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1 services, or anything else of value;

2 ~~[(8)]~~ (10) "Merchant", an owner or operator of any retail mercantile establishment, or any
 3 agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such
 4 owner or operator. A merchant includes a person who receives from ~~[an authorized user of a~~
 5 ~~payment card]~~ a cardholder, or an individual the person believes to be ~~[an authorized user]~~ a
 6 cardholder, a ~~[payment]~~ credit card or information from a ~~[payment]~~ credit card as the instrument
 7 for obtaining, purchasing, or receiving goods, services, money, or anything of value from the
 8 person;

9 ~~[(9)]~~ (11) "Person", any natural person or his legal representative, partnership, firm, for-
 10 profit or not-for-profit corporation, whether domestic or foreign, company, foundation, trust,
 11 business entity or association, and any agent, employee, salesman, partner, officer, director,
 12 member, stockholder, associate, trustee or cestui que trust thereof;

13 ~~[(10)]~~ (12) "Reencoder", an electronic device that places encoded information from the chip
 14 or magnetic strip or stripe of a credit ~~[or debit]~~ card onto the chip or magnetic strip or stripe of a
 15 different credit ~~[or debit]~~ card;

16 ~~[(11)]~~ (13) "Revoked credit card", a credit card for which permission to use it has been
 17 suspended or terminated by the issuer;

18 ~~[(12)]~~ (14) "Scanning device", a scanner, reader, or any other electronic device that is used
 19 to access, read, scan, obtain, memorize, or store, temporarily or permanently, information stored in
 20 the chip or encoded on the magnetic strip or stripe of a credit ~~[or debit]~~ card. "Scanning device"
 21 shall include devices used by a merchant for contactless payments.

22 407.433. 1. No person, other than the cardholder, shall:

23 (1) Disclose more than the last five digits of a credit card ~~[or debit card]~~ account number on
 24 any sales receipt provided to the cardholder for merchandise sold in this state[;]

25 ~~—— (2) Use a scanning device to access, read, obtain, memorize, or store, temporarily or~~
 26 ~~permanently, information encoded on the magnetic strip or stripe of a credit or debit card without~~
 27 ~~the permission of the cardholder and with the intent to defraud any person, the issuer, or a merchant;~~
 28 ~~or~~

29 ~~—— (3) Use a reencoder to place information encoded on the magnetic strip or stripe of a credit~~
 30 ~~or debit card onto the magnetic strip or stripe of a different card without the permission of the~~
 31 ~~cardholder from which the information is being reencoded and with the intent to defraud any~~
 32 ~~person, the issuer, or a merchant].~~

33 2. Any person who knowingly violates this section is guilty of an infraction and any second
 34 or subsequent violation of this section is a class A misdemeanor.

35 3. It shall not be a violation of subdivision (1) of subsection 1 of this section if:

36 (1) The sole means of recording the credit card number ~~[or debit card number]~~ is by
 37 handwriting or, prior to January 1, 2005, by an imprint of the credit card ~~[or debit card]~~; and

38 (2) For handwritten or imprinted copies of credit card ~~[or debit card]~~ receipts, only the
 39 merchant's copy of the receipt lists more than the last five digits of the account number.

40 4. This section shall become effective on January 1, 2003, and applies to any cash register
 41 or other machine or device that prints or imprints receipts of credit card ~~[or debit card]~~ transactions
 42 and which is placed into service on or after January 1, 2003. Any cash register or other machine or
 43 device that prints or imprints receipts on credit card ~~[or debit card]~~ transactions and which is placed
 44 in service prior to January 1, 2003, shall be subject to the provisions of this section on or after
 45 January 1, 2005.

46 407.435. 1. A person commits the offense of illegal use of a card scanner if the person:

47 (1) Directly or indirectly uses a scanning device to access, read, obtain, memorize, or store,
 48 temporarily or permanently, information stored in the chip or encoded on the magnetic strip or

1 stripe of a credit card without the permission of the cardholder, the credit card issuer, or a merchant;

2 (2) Possesses a scanning device with the intent to defraud a cardholder, credit card issuer, or
 3 merchant or possesses a scanning device with the knowledge that some other person intends to use
 4 the scanning device to defraud a cardholder, credit card issuer, or merchant;

5 (3) Directly or indirectly uses a reencoder to copy a credit card without the permission of
 6 the cardholder of the card from which the information is being reencoded and does so with the
 7 intent to defraud the cardholder, the credit card issuer, or a merchant; or

8 (4) Possesses a reencoder with the intent to defraud a cardholder, credit card issuer, or
 9 merchant or possesses a reencoder with the knowledge that some other person intends to use the
 10 reencoder to defraud a cardholder, credit card issuer, or merchant.

11 2. The offense of illegal use of a card scanner is a class D felony. However, a second or
 12 subsequent offense arising from a separate incident is a class C felony.

13 ~~407.436. [1. Any person who willfully and knowingly, and with the intent to defraud,~~
 14 ~~engages in any practice declared to be an unlawful practice in sections 407.430 to 407.436 of this~~
 15 ~~credit user protection law shall be guilty of a class E felony.~~

16 ~~——— 2. The violation of any provision of sections 407.430 to 407.436 of this credit user~~
 17 ~~protection law constitutes an unlawful practice pursuant to sections 407.010 to 407.130, and the~~
 18 ~~violation shall be subject to all penalties, remedies and procedures provided in sections 407.010 to~~
 19 ~~407.130. The attorney general shall have all powers, rights, and duties regarding violations of~~
 20 ~~sections 407.430 to 407.436 as are provided in sections 407.010 to 407.130, in addition to~~
 21 ~~rulemaking authority as provided in section 407.145.] A person commits the offense of defacing a~~
 22 ~~credit card reader if a person damages, defaces, alters, or destroys a scanning device and the person~~
 23 ~~has no right to do so. The offense of defacing a credit card reader is a class A misdemeanor."; and~~

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 25 Further amend said bill by amending the title, enacting clause, and intersectional references
 26 accordingly.