

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1832

AN ACT

To repeal sections 407.300, 407.432, 407.433, and 407.436, RSMo, and to enact in lieu thereof seven new sections relating to merchandising practices, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 407.300, 407.432, 407.433, and 407.436,
2 RSMo, are repealed and seven new sections enacted in lieu
3 thereof, to be known as sections 407.300, 407.315, 407.431,
4 407.432, 407.433, 407.435, and 407.436, to read as follows:

5 407.300. 1. Every purchaser or collector of, or dealer in,
6 junk, scrap metal, or any secondhand property shall keep a
7 register containing a written or electronic record for each
8 purchase or trade in which each type of [metal] material subject
9 to the provisions of this section is obtained for value. There
10 shall be a separate record for each transaction involving any:

11 (1) Copper, brass, or bronze;

12 (2) Aluminum wire, cable, pipe, tubing, bar, ingot, rod,
13 fitting, or fastener;

14 (3) Material containing copper or aluminum that is
15 knowingly used for farming purposes as farming is defined in
16 section 350.010; whatever may be the condition or length of such

1 metal; [or]

2 (4) Catalytic converter; or

3 (5) Motor vehicle, heavy equipment, or tractor battery.

4 2. The record required by this section shall contain the
5 following data:

6 (1) A copy of the driver's license or photo identification
7 issued by the state or by the United States government or agency
8 thereof to the person from whom the material is obtained;

9 (2) The current address, gender, birth date, and a
10 photograph of the person from whom the material is obtained if
11 not included or are different from the identification required in
12 subdivision (1) of this subsection;

13 (3) The date, time, and place of the transaction;

14 (4) The license plate number of the vehicle used by the
15 seller during the transaction;

16 (5) A full description of the [metal] material, including
17 the weight and purchase price.

18 3. The records required under this section shall be
19 maintained for a minimum of twenty-four months from when such
20 material is obtained and shall be available for inspection by any
21 law enforcement officer.

22 4. Anyone convicted of violating this section shall be
23 guilty of a class B misdemeanor.

24 5. This section shall not apply to any of the following
25 transactions:

26 (1) Any transaction for which the total amount paid for all
27 regulated [scrap metal] material purchased or sold does not
28 exceed fifty dollars, unless the [scrap metal] material is a

1 catalytic converter;

2 (2) Any transaction for which the seller, including a farm
3 or farmer, has an existing business relationship with the scrap
4 metal dealer and is known to the scrap metal dealer making the
5 purchase to be an established business or political subdivision
6 that operates a business with a fixed location that can be
7 reasonably expected to generate regulated scrap metal and can be
8 reasonably identified as such a business; or

9 (3) Any transaction for which the type of metal subject to
10 subsection 1 of this section is a minor part of a larger item,
11 except for equipment used in the generation and transmission of
12 electrical power or telecommunications.

13 407.315. 1. As used in this section, the following terms
14 mean:

15 (1) "American Indian", a person who is a citizen or
16 enrolled member of an American Indian tribe;

17 (2) "American Indian tribe", any Indian tribe federally
18 recognized by the Bureau of Indian Affairs of the United States
19 Department of the Interior;

20 (3) "Authentic American Indian art or craft", any article
21 of American Indian style, make, origin, or design that was made
22 wholly or in part by American Indian labor and workmanship
23 including, but not limited to, any Kachina doll, rosette,
24 necklace, choker, barrette, hair tie, medallion, pin, pendant,
25 bolo tie, belt, belt buckle, cuff links, tie clasp, tie bar,
26 ring, earring, purse, blanket, shawl, moccasin, drum, or pottery
27 or any visual or performing arts or literature;

28 (4) "Imitation American Indian art or craft", any basic

1 article purporting to be of American Indian style, make, origin,
2 or design that was not made by American Indian labor and
3 workmanship;

4 (5) "Merchant", any person engaged in the sale to the
5 public of imitation American Indian art or craft or authentic
6 American Indian art or craft.

7 2. No merchant shall distribute, trade, sell, or offer for
8 sale or trade within this state any article represented as being
9 made by American Indians unless the article is an authentic
10 American Indian art or craft. All such articles purporting to be
11 of silver shall be made of coin or sterling silver.

12 3. Any merchant who knowingly and willfully tags or labels
13 any article as being an American Indian art or craft when it does
14 not meet the specifications of this section shall be subject to a
15 fine of not less than twenty-five dollars and not more than two
16 hundred dollars, to imprisonment for not less than thirty days
17 and not more than ninety days, or to both such fine and
18 imprisonment.

19 407.431. The attorney general shall have all powers,
20 rights, and duties regarding violations of sections 407.430 to
21 407.436 as are provided in sections 407.010 to 407.130, in
22 addition to rulemaking authority under section 407.145.

23 407.432. As used in sections 407.430 to 407.436, the
24 following terms shall mean:

25 (1) "Acquirer", a business organization, financial
26 institution, or an agent of a business organization or financial
27 institution that authorizes a merchant to accept payment by
28 credit card for merchandise;

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

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

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

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

19 [(4)] (6) "Credit card" [or "debit card"], any instrument
20 or device, whether known as a credit card, credit plate, bank
21 service card, banking card, check guarantee card, or debit card
22 or by any other name, that is issued with or without a fee by an
23 issuer for the use of the cardholder in obtaining money or
24 merchandise on credit[,] or by transferring payment from the
25 cardholder's checking account or for use in an automated banking
26 device to obtain any of the services offered through the device.
27 The presentation of a credit card account number is deemed to be
28 the presentation of a credit card. "Credit card" shall include

1 credit or debit cards whose information is stored in a digital
2 wallet for use in in-app purchases or contactless payments;

3 [(5)] (7) "Expired credit card", a credit card for which
4 the expiration date shown on it has passed;

5 [(6)] (8) "Issuer", the business organization [or],
6 financial institution, or [its] duly authorized agent[, which]
7 thereof that issues a credit card;

8 [(7)] (9) "Merchandise", any objects, wares, goods,
9 commodities, intangibles, real estate, services, or anything else
10 of value;

11 [(8)] (10) "Merchant", an owner or operator of any retail
12 mercantile establishment, or any agent, employee, lessee,
13 consignee, officer, director, franchisee, or independent
14 contractor of such owner or operator. A merchant includes a
15 person who receives from [an authorized user of a payment card] a
16 cardholder, or an individual the person believes to be [an
17 authorized user] a cardholder, a [payment] credit card or
18 information from a [payment] credit card as the instrument for
19 obtaining, purchasing, or receiving goods, services, money, or
20 anything of value from the person;

21 [(9)] (11) "Person", any natural person or his legal
22 representative, partnership, firm, for-profit or not-for-profit
23 corporation, whether domestic or foreign, company, foundation,
24 trust, business entity or association, and any agent, employee,
25 salesman, partner, officer, director, member, stockholder,
26 associate, trustee or cestui que trust thereof;

27 [(10)] (12) "Reencoder", an electronic device that places
28 encoded information from the chip or magnetic strip or stripe of

1 a credit [or debit] card onto the chip or magnetic strip or
2 stripe of a different credit [or debit] card;

3 [(11)] (13) "Revoked credit card", a credit card for which
4 permission to use it has been suspended or terminated by the
5 issuer;

6 [(12)] (14) "Scanning device", a scanner, reader, or any
7 other electronic device that is used to access, read, scan,
8 obtain, memorize, or store, temporarily or permanently,
9 information stored in the chip or encoded on the magnetic strip
10 or stripe of a credit [or debit] card. "Scanning device" shall
11 include devices used by a merchant for contactless payments.

12 407.433. 1. No person, other than the cardholder, shall:

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

16 (2) Use a scanning device to access, read, obtain,
17 memorize, or store, temporarily or permanently, information
18 encoded on the magnetic strip or stripe of a credit or debit card
19 without the permission of the cardholder and with the intent to
20 defraud any person, the issuer, or a merchant; or

21 (3) Use a reencoder to place information encoded on the
22 magnetic strip or stripe of a credit or debit card onto the
23 magnetic strip or stripe of a different card without the
24 permission of the cardholder from which the information is being
25 reencoded and with the intent to defraud any person, the issuer,
26 or a merchant].

27 2. Any person who knowingly violates this section is guilty
28 of an infraction and any second or subsequent violation of this

1 section is a class A misdemeanor.

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

4 (1) The sole means of recording the credit card number [or
5 debit card number] is by handwriting or, prior to January 1,
6 2005, by an imprint of the credit card [or debit card]; and

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

10 4. This section shall become effective on January 1, 2003,
11 and applies to any cash register or other machine or device that
12 prints or imprints receipts of credit card [or debit card]
13 transactions and which is placed into service on or after January
14 1, 2003. Any cash register or other machine or device that
15 prints or imprints receipts on credit card [or debit card]
16 transactions and which is placed in service prior to January 1,
17 2003, shall be subject to the provisions of this section on or
18 after January 1, 2005.

19 407.435. 1. A person commits the offense of illegal use of
20 a card scanner if the person:

21 (1) Directly or indirectly uses a scanning device to
22 access, read, obtain, memorize, or store, temporarily or
23 permanently, information stored in the chip or encoded on the
24 magnetic strip or stripe of a credit card without the permission
25 of the cardholder, the credit card issuer, or a merchant;

26 (2) Possesses a scanning device with the intent to defraud
27 a cardholder, credit card issuer, or merchant or possesses a
28 scanning device with the knowledge that some other person intends

1 to use the scanning device to defraud a cardholder, credit card
2 issuer, or merchant;

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

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

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

16 407.436. [1. Any person who willfully and knowingly, and
17 with the intent to defraud, engages in any practice declared to
18 be an unlawful practice in sections 407.430 to 407.436 of this
19 credit user protection law shall be guilty of a class E felony.

20 2. The violation of any provision of sections 407.430 to
21 407.436 of this credit user protection law constitutes an
22 unlawful practice pursuant to sections 407.010 to 407.130, and
23 the violator shall be subject to all penalties, remedies and
24 procedures provided in sections 407.010 to 407.130. The attorney
25 general shall have all powers, rights, and duties regarding
26 violations of sections 407.430 to 407.436 as are provided in
27 sections 407.010 to 407.130, in addition to rulemaking authority
28 as provided in section 407.145.] A person commits the offense of

1 defacing a credit card reader if a person damages, defaces,
2 alters, or destroys a scanning device and the person has no right
3 to do so. The offense of defacing a credit card reader is a
4 class A misdemeanor.