

2024 Regular Session

HOUSE BILL NO. 211

BY REPRESENTATIVE VILLIO

CRIME: Provides relative to the Anti-Skimming Act

1 AN ACT

2 To amend and reenact R.S. 14:67.4(B)(4) and (5), (C), (D)(3), and (E), relative to offenses
3 against property; to provide relative to the Anti-Skimming Act; to provide relative
4 to definitions; to provide relative to elements of the offense; to provide for penalties;
5 to provide relative to restitution; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:67.4(B)(4) and (5), (C), (D)(3), and (E) are hereby amended and
8 reenacted to read as follows:

9 §67.4. Anti-Skimming Act

10 * * *

11 B. As used in this Section the following terms have the following meanings:

12 * * *

13 (4) "Re-encoder" means an electronic device that places encoded information
14 from the microchip or magnetic strip or stripe of a payment card onto the microchip
15 or magnetic strip or stripe of a different payment card.

16 (5) "Scanning device" means a scanner, reader, or any other electronic
17 device that is used to access, read, scan, obtain, memorize, or store, temporarily or
18 permanently, information encoded on the microchip or magnetic strip or stripe of a
19 payment card.

20 C. It shall be unlawful for any person to do ~~either~~ any of the following:

1 (1) Use a scanning device to access, read, obtain, memorize, or store,
2 temporarily or permanently, information encoded on the microchip or magnetic strip
3 or stripe of a payment card without the permission of the authorized user of the
4 payment card and with the intent to defraud the authorized user, the issuer of the
5 authorized user's payment card, or a merchant.

6 (2) Use a re-encoder to place information encoded on the microchip or
7 magnetic strip or stripe of a payment card onto the microchip or magnetic strip or
8 stripe of a different card without the permission of the authorized user of the card
9 from which the information is being re-encoded and with the intent to defraud the
10 authorized user, the issuer of the authorized user's payment card, or a merchant.

11 (3) Possess a re-encoder or scanning device with the intent to defraud.

12 D.

13 * * *

14 (3) Upon a ~~third~~ second or subsequent conviction of a violation of the
15 provisions of this Section, the offender shall be imprisoned, with or without hard
16 labor, for not less than one year nor more than ten years, or may and may be fined
17 not more than twenty thousand dollars, ~~or both.~~

18 E. In addition to the penalties provided in Subsection D of this Section, a
19 person convicted under this Section shall be ordered to make full restitution to the
20 victim and any other person who has suffered a financial loss as a result of the
21 offense in accordance with Code of Criminal Procedure Article 883.2. ~~If a person~~
22 ~~ordered to make restitution pursuant to this Section is found to be indigent and~~
23 ~~therefore unable to make restitution in full at the time of conviction, the court shall~~
24 ~~order a periodic payment plan consistent with the person's financial ability.~~

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 211 Original

2024 Regular Session

Villio

Abstract: Provides relative to the elements and penalties contained within the Anti-Skimming Act.

Present law provides for the crime of skimming.

Proposed law retains present law.

Present law defines the terms "authorized card user", "merchant", "payment card", "re-encoder", and "scanning device".

Proposed law retains present law but amends the definition of "re-encoder" to include a microchip of a payment card as a source where encoded information can be placed onto the microchip of a different payment card.

Proposed law further amends the definition of "scanning device" to include a microchip of a payment card as a source where encoded information can be accessed, read, scanned, obtained, memorized, or temporarily or permanently stored.

Present law provides that it shall be unlawful for any person to do either of the following:

- (1) Use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.
- (2) Use a re-encoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card without the permission of the authorized user of the card from which the information is being re-encoded and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.

Proposed law amends present law to include information encoded on a microchip.

Proposed law further amends present law to include the placement of information encoded on a microchip of a payment card to the microchip of a different card.

Proposed law provides that it is unlawful for any person to possess a re-encoder or scanning device with the intent to defraud.

Present law provides for penalties.

Proposed law retains present law generally.

Present law provides that upon a third or subsequent conviction of a violation of the provisions of present law, the offender shall be imprisoned, with or without hard labor, for not more than 10 years, or may be fined not more than \$20,000, or both.

Proposed law amends present law to change the conviction from third or subsequent to a second or subsequent conviction and provides for a minimum imprisonment term of one year. Further provides that the offender may also be fined \$20,000.

Present law provides that in addition to the penalties provided in present law, a person convicted under present law shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense.

Proposed law amends present law to provide that restitution shall be made to the victim in accordance with present law (C.Cr.P. Art. 883.2).

Present law provides that if a person ordered to make restitution pursuant to present law is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

Proposed law removes this provision of present law.

(Amends R.S. 14:67.4(B)(4) and (5), (C), (D)(3), and (E))