

## **BILL ANALYSIS**

Senate Research Center

H.B. 2625  
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Criminal Justice  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Concerns have been raised regarding the inefficiency with which offenses involving credit card skimming are prosecuted. It has been noted that many individuals arrested for such an offense have multiple counterfeit cards in their possession in addition to numerous victims' account numbers. Furthermore, prosecutors hoping to levy more severe punishment for such an offense often find themselves pursuing the offense as fraudulent use or possession of identifying information, which can require contacting each account holder. H.B. 2625 seeks to address these issues by creating the offense of mass fraudulent use or possession of credit card or debit card information.

H.B. 2625 amends current law relating to creating the criminal offense of fraudulent use or possession of credit card or debit card information.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter C, Chapter 32, Penal Code, by adding Section 32.315, as follows:

Sec. 32.315. FRAUDULENT USE OR POSSESSION OF CREDIT CARD OR DEBIT CARD INFORMATION. (a) Defines "counterfeit credit card or debit card," "credit card," "debit card" and "digital imprint" for purposes of this section.

(b) Provides that a person commits an offense if the person, with the intent to harm or defraud another, obtains, possesses, transfers, or uses:

(1) a counterfeit credit card or debit card;

(2) the number and expiration date of a credit card or debit card without the consent of the account holder; or

(3) the data stored on the digital imprint of a credit card or debit card without the consent of the account holder.

(c) Provides that, if an actor possessed five or more of an item described by Subsection (b)(2) or (3), a rebuttable presumption exists that the actor possessed each item without the consent of the account holder.

(d) Provides that the presumption established under Subsection (c) does not apply to a business or other commercial entity or a government agency that is engaged in a business activity or governmental function that does not violate a penal law of this state.

(e) Provides that an offense under this section is:

(1) a state jail felony if the number of items obtained, possessed, transferred, or used is less than five;

(2) a felony of the third degree if the number of items obtained, possessed, transferred, or used is five or more but less than 10;

(3) a felony of the second degree if the number of items obtained, possessed, transferred, or used is 10 or more but less than 50; or

(4) a felony of the first degree if the number of items obtained, possessed, transferred, or used is 50 or more.

(f) Authorizes the court, if a court orders a defendant convicted of an offense under this section to make restitution to a victim of the offense, to order the defendant to reimburse the victim for lost income or other expenses, other than attorney's fees, incurred as a result of the offense.

(g) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

SECTION 2. Makes application of this Act prospective. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. Effective date: September 1, 2019.