

BILL ANALYSIS

Senate Research Center
78R8814 RCJ-D

H.B. 2138
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Criminal Justice
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Engrossed

DIGEST AND PURPOSE

Credit card "skimming" is a method by which information encoded in a magnetic strip of a credit card is gathered by an electronic card reader, or skimmer. This information is used legitimately when processing a credit card transaction. However, a skimmer can become a handy tool for criminals who use the skimmed data for illegal transactions and purchases or to re-encode the magnetic strip of a counterfeit card.

H.B. 2138 provides that it is an offense for a person to use a skimmer or re-encoder to access, read, scan, store, or transfer the information encoded on a payment card's magnetic strip without the consent of the card's authorized user.

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 D, Chapter 35, Business & Commerce Code, by adding Section 35.58, as follows:

Sec. 35.58. IDENTITY THEFT BY ELECTRONIC DEVICE. (a) Defines "payment card," "re-encoder," and "scanning device."

(b) Provides that a person commits an offense if the person uses a scanning device or re-encoder to access, read, scan, store, or transfer information encoded on the magnetic strip of a payment card without the consent of an authorized user of the payment card and with intent to harm or defraud another.

(c) Provides that an offense under this section is a Class B misdemeanor.

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

SECTION 2. Amends Articles 18.18(a), (b), (e), (f), and (g), Code of Criminal Procedure, as follows:

(a) Requires the court entering the judgment of conviction to order that the machine, device, gambling equipment or gambling paraphernalia, instrument, obscene device or material, or scanning device or re-encoder be destroyed or forfeited to the state, following the final conviction of a person for possession of a gambling device or equipment, altered gambling equipment, or gambling paraphernalia, for an offense involving a criminal instrument, for an offense involving an obscene device or material, or for an offense involving a scanning device or re-encoder.

(b) Makes a conforming change.

(e) Makes a conforming change.

(f) Makes a conforming change.

(g) Defines "re-encoder" and "scanning device."

SECTION 3. Amends Article 59.01(2), Code of Criminal Procedure, to redefine "contraband."

SECTION 4. Effective date: September 1, 2003.