

Senate File 2238

S-5080

1 Amend Senate File 2238 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. Section 715A.10, Code 2018, is amended to read  
5 as follows:

6 **715A.10 Illegal use of scanning device or ~~reencoder~~ encoding  
7 machine.**

8 1. A person commits a class "D" felony if the person does  
9 any of the following:

10 a. ~~Uses~~ Directly or indirectly uses a scanning device  
11 to access, read, obtain, memorize, or store, temporarily  
12 or permanently, information encoded on the ~~magnetic strip~~  
13 ~~or stripe~~ of a payment card without the permission of the  
14 authorized user of the payment card, ~~and with the intent to~~  
15 ~~defraud the authorized user~~, the issuer of the authorized  
16 user's payment card, or a merchant.

17 b. ~~Uses a reencoder~~ Directly or indirectly uses an encoding  
18 machine to place information encoded on the ~~magnetic strip or~~  
19 ~~stripe~~ of a payment card onto the ~~magnetic strip or stripe~~ of a  
20 different payment card without the permission of the authorized  
21 user of the payment card from which the information ~~is being~~  
22 ~~reencoded~~ was obtained, ~~and with the intent to defraud the~~  
23 ~~authorized user~~, the issuer of the authorized user's payment  
24 card, or a merchant.

25 1A. A person commits an aggravated misdemeanor if the person  
26 possesses a scanning device with the intent to use such device  
27 to obtain information encoded on a payment card without the  
28 permission of the authorized user of the payment card, the  
29 issuer of the authorized user's payment card, or a merchant, or  
30 possesses a scanning device with knowledge that a person other  
31 than the authorized user, the issuer of the authorized user's  
32 payment card, or a merchant intends to use the scanning device  
33 to obtain information encoded on a payment card without the  
34 permission of the authorized user, the issuer of the authorized  
35 user's payment card, or a merchant.

SF2238.4257 (2) 87

(amending this SF 2238 to CONFORM to HF 2199)

1 2. A second or subsequent violation of this section is a  
2 class "C" felony.

3 3. As used in this section:

4 a. "Encoding machine" means an electronic device that is  
5 used to encode information onto a payment card.

6 ~~a.~~ b. "Merchant" means an owner or operator of a retail  
7 mercantile establishment or an agent, employee, lessee,  
8 consignee, officer, director, franchisee, or independent  
9 contractor of such owner or operator. A "merchant" also means  
10 includes an establishing financial institution referred to  
11 in section 527.5, a person who receives from an authorized  
12 user of a payment card, or someone the person believes to  
13 be an authorized user, a payment card or information from a  
14 payment card, or what the person believes to be a payment card  
15 or information from a payment card, as the instrument for  
16 obtaining, purchasing, or receiving goods, services, money, or  
17 anything else of value from the person.

18 ~~b.~~ c. "Payment card" means a credit card, charge card,  
19 debit card, access device as defined in section 527.2, or  
20 any other card that is issued to an authorized card user and  
21 that allows the user to obtain, purchase, or receive goods,  
22 services, money, or anything else of value from a merchant.

23 ~~c.~~ ~~"Reencoder" means an electronic device that places~~  
24 ~~encoded information from the magnetic strip or stripe of a~~  
25 ~~payment card onto the magnetic strip or stripe of a different~~  
26 ~~payment card.~~

27 d. "Scanning device" means a scanner, reader, wireless  
28 access device, radio frequency identification scanner, an  
29 electronic device that utilizes near field communications  
30 technology, or any other electronic device that is used to  
31 access, read, scan, obtain, memorize, or store, temporarily  
32 or permanently, information encoded on the magnetic strip or  
33 stripe of a payment card.

34 Sec. 2. Section 716.5, subsection 1, Code 2018, is amended  
35 by adding the following new paragraph:

SF2238.4257 (2) 87

(amending this SF 2238 to CONFORM to HF 2199)

1     NEW PARAGRAPH. *f.* The act is committed upon property that  
2 consists of a device that has the ability to process a payment  
3 card as defined in section 715A.10.>

4     2. Title page, by striking lines 1 through 3 and inserting  
5 <An Act relating to the criminal offenses of the illegal use of  
6 a scanning device or encoding machine and criminal mischief in  
7 the third degree, and providing penalties.>

---

BRAD ZAUN