

**House File 2199 - Reprinted**

HOUSE FILE 2199  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 507)

(As Amended and Passed by the House February 20, 2018)

**A BILL FOR**

1 An Act relating to the criminal offenses of the illegal use of  
2 a scanning device or encoding machine and criminal mischief  
3 in the third degree, and providing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

3 **715A.10 Illegal use of scanning device or ~~reencoder~~ encoding**  
4 **machine.**

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

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

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

22 1A. A person commits an aggravated misdemeanor if the person  
23 possesses a scanning device with the intent to use such device  
24 to obtain information encoded on a payment card without the  
25 permission of the authorized user of the payment card, the  
26 issuer of the authorized user's payment card, or a merchant, or  
27 possesses a scanning device with knowledge that a person other  
28 than the authorized user, the issuer of the authorized user's  
29 payment card, or a merchant intends to use the scanning device  
30 to obtain information encoded on a payment card without the  
31 permission of the authorized user, the issuer of the authorized  
32 user's payment card, or a merchant.

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

35 3. As used in **this section**:

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

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

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

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

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

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

33 NEW PARAGRAPH. f. The act is committed upon property that  
34 consists of a device that has the ability to process a payment  
35 card as defined in section 715A.10.