

BILL ANALYSIS

H.B. 1323
By: Swinford
Criminal Jurisprudence
Committee Report (Amended)

BACKGROUND AND PURPOSE

Under current law, an individual can be prosecuted if it can be proven that he or she actually stole a credit or debit card, had an intent to obtain a benefit and presents or uses the card with knowledge that he did not have the owner's effective consent. Mere possession of a stolen card is not an offense.

With the recent epidemic of methamphetamine abuse, identity theft of this type is becoming increasingly common. Addicts are often found to have numerous stolen credit cards in their possession when they are arrested. Law enforcement's ability to respond to this ever escalating crisis would be greatly enhanced if the law were changed to state that a person commits an offense if he or she intentionally or knowingly possesses another's credit or debit card without the effective consent of the owner.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

House Bill 1323 amends Section 32.31(b)(8), Penal Code, by deleting "signs or writes his name or the name of another on" and adds "possesses" to change the nature of the offense to possession of a credit card or debit card without the consent of the cardholder.

The bill further amends Section 32.31(d), Penal Code, by adding "unless it is committed under Subsection (b)(8), in which it is a Class A misdemeanor." This separates the amended offense in Section 32.31(b)(8) from all other offenses listed in Section 32.31(b) which are felonies.

EFFECTIVE DATE

September 1, 2005.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1

The committee amendment restores language stricken in the introduced bill, under Section 32.31(b)(8), which removed the condition that a person intend to use the card. The amendment removes language added by the original bill which made possession a Class A misdemeanor, making possession a state jail felony.