

By: Swinford

H.B. No. 1323

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of the offense of credit card or debit  
3 card abuse.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 32.31(b) and (d), Penal Code, are  
6 amended to read as follows:

7 (b) A person commits an offense if:

8 (1) with intent to obtain a benefit fraudulently, he  
9 presents or uses a credit card or debit card with knowledge that:

10 (A) the card, whether or not expired, has not  
11 been issued to him and is not used with the effective consent of the  
12 cardholder; or

13 (B) the card has expired or has been revoked or  
14 cancelled;

15 (2) with intent to obtain a benefit, he uses a  
16 fictitious credit card or debit card or the pretended number or  
17 description of a fictitious card;

18 (3) he receives a benefit that he knows has been  
19 obtained in violation of this section;

20 (4) he steals a credit card or debit card or, with  
21 knowledge that it has been stolen, receives a credit card or debit  
22 card with intent to use it, to sell it, or to transfer it to a person  
23 other than the issuer or the cardholder;

24 (5) he buys a credit card or debit card from a person

1 who he knows is not the issuer;

2 (6) not being the issuer, he sells a credit card or  
3 debit card;

4 (7) he uses or induces the cardholder to use the  
5 cardholder's credit card or debit card to obtain property or  
6 service for the actor's benefit for which the cardholder is  
7 financially unable to pay;

8 (8) not being the cardholder, and without the  
9 effective consent of the cardholder, he possesses [~~signs or writes~~  
10 ~~his name or the name of another on~~] a credit card or debit card [~~with~~  
11 ~~intent to use it~~];

12 (9) he possesses two or more incomplete credit cards  
13 or debit cards that have not been issued to him with intent to  
14 complete them without the effective consent of the issuer. For  
15 purposes of this subdivision, a card is incomplete if part of the  
16 matter that an issuer requires to appear on the card before it can  
17 be used, other than the signature of the cardholder, has not yet  
18 been stamped, embossed, imprinted, or written on it;

19 (10) being authorized by an issuer to furnish goods or  
20 services on presentation of a credit card or debit card, he, with  
21 intent to defraud the issuer or the cardholder, furnishes goods or  
22 services on presentation of a credit card or debit card obtained or  
23 retained in violation of this section or a credit card or debit card  
24 that is forged, expired, or revoked; or

25 (11) being authorized by an issuer to furnish goods or  
26 services on presentation of a credit card or debit card, he, with  
27 intent to defraud the issuer or a cardholder, fails to furnish goods

1 or services that he represents in writing to the issuer that he has  
2 furnished.

3 (d) An offense under this section is a state jail felony,  
4 unless it is committed under Subsection (b)(8), in which event it is  
5 a Class A misdemeanor.

6 SECTION 2. (a) The change in law made by this Act applies  
7 only to an offense committed on or after the effective date of this  
8 Act. For purposes of this section, an offense is committed before  
9 the effective date of this Act if any element of the offense occurs  
10 before the effective date.

11 (b) An offense committed before the effective date of this  
12 Act is covered by the law in effect when the offense was committed,  
13 and the former law is continued in effect for that purpose.

14 SECTION 3. This Act takes effect September 1, 2005.

