

1-1 By: Swinford, Brown of Kaufman H.B. No. 1323
1-2 (Senate Sponsor - Seliger)
1-3 (In the Senate - Received from the House April 4, 2005;
1-4 April 6, 2005, read first time and referred to Committee on
1-5 Criminal Justice; May 20, 2005, reported favorably by the
1-6 following vote: Yeas 4, Nays 0; May 20, 2005, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the prosecution of the offense of credit card or debit
1-10 card abuse.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 32.31(b), Penal Code, is amended to read
1-13 as follows:

1-14 (b) A person commits an offense if:

1-15 (1) with intent to obtain a benefit fraudulently, he
1-16 presents or uses a credit card or debit card with knowledge that:

1-17 (A) the card, whether or not expired, has not
1-18 been issued to him and is not used with the effective consent of the
1-19 cardholder; or

1-20 (B) the card has expired or has been revoked or
1-21 cancelled;

1-22 (2) with intent to obtain a benefit, he uses a
1-23 fictitious credit card or debit card or the pretended number or
1-24 description of a fictitious card;

1-25 (3) he receives a benefit that he knows has been
1-26 obtained in violation of this section;

1-27 (4) he steals a credit card or debit card or, with
1-28 knowledge that it has been stolen, receives a credit card or debit
1-29 card with intent to use it, to sell it, or to transfer it to a person
1-30 other than the issuer or the cardholder;

1-31 (5) he buys a credit card or debit card from a person
1-32 who he knows is not the issuer;

1-33 (6) not being the issuer, he sells a credit card or
1-34 debit card;

1-35 (7) he uses or induces the cardholder to use the
1-36 cardholder's credit card or debit card to obtain property or
1-37 service for the actor's benefit for which the cardholder is
1-38 financially unable to pay;

1-39 (8) not being the cardholder, and without the
1-40 effective consent of the cardholder, he possesses ~~signs or writes~~
1-41 ~~his name or the name of another on~~ a credit card or debit card with
1-42 intent to use it;

1-43 (9) he possesses two or more incomplete credit cards
1-44 or debit cards that have not been issued to him with intent to
1-45 complete them without the effective consent of the issuer. For
1-46 purposes of this subdivision, a card is incomplete if part of the
1-47 matter that an issuer requires to appear on the card before it can
1-48 be used, other than the signature of the cardholder, has not yet
1-49 been stamped, embossed, imprinted, or written on it;

1-50 (10) being authorized by an issuer to furnish goods or
1-51 services on presentation of a credit card or debit card, he, with
1-52 intent to defraud the issuer or the cardholder, furnishes goods or
1-53 services on presentation of a credit card or debit card obtained or
1-54 retained in violation of this section or a credit card or debit card
1-55 that is forged, expired, or revoked; or

1-56 (11) being authorized by an issuer to furnish goods or
1-57 services on presentation of a credit card or debit card, he, with
1-58 intent to defraud the issuer or a cardholder, fails to furnish goods
1-59 or services that he represents in writing to the issuer that he has
1-60 furnished.

1-61 SECTION 2. (a) The change in law made by this Act applies
1-62 only to an offense committed on or after the effective date of this
1-63 Act. For purposes of this section, an offense is committed before
1-64 the effective date of this Act if any element of the offense occurs

2-1 before the effective date.

2-2 (b) An offense committed before the effective date of this
2-3 Act is covered by the law in effect when the offense was committed,
2-4 and the former law is continued in effect for that purpose.

2-5 SECTION 3. This Act takes effect September 1, 2005.

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