

By: Raymond

H.B. No. 2358

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the offense of identity theft by electronic device and  
3 to notice to certain persons of the penalties associated with that  
4 offense.

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

6 SECTION 1. Sections 35.58(b) and (c), Business & Commerce  
7 Code, as added by Chapter 649, Acts of the 78th Legislature, Regular  
8 Session, 2003, are amended to read as follows:

9 (b) A person commits an offense if the person, with intent  
10 to harm or defraud another:

11 (1) possesses a scanning device or re-encoder; or

12 (2) uses a scanning device or re-encoder to access,  
13 read, scan, store, or transfer information encoded on the magnetic  
14 strip of a payment card without the consent of an authorized user of  
15 the payment card [~~and with intent to harm or defraud another~~].

16 (c) An offense under this section is a state jail felony  
17 [~~Class B misdemeanor~~].

18 SECTION 2. Section 106.14(b), Alcoholic Beverage Code, is  
19 amended to read as follows:

20 (b) The commission shall adopt rules or policies  
21 establishing the minimum requirements for approved seller training  
22 programs. The commission shall require, as a condition for  
23 approval, that all seller training programs include information  
24 concerning the elements of and penalties for criminal offenses

1 involving credit cards, debit cards, and identity theft, including  
2 information concerning the offenses under Section 35.58, Business &  
3 Commerce Code (identity theft by electronic device), as added by  
4 Chapter 649, Acts of the 78th Legislature, Regular Session, 2003,  
5 and Section 32.51, Penal Code (fraudulent use or possession of  
6 identifying information). Upon application, the commission shall  
7 approve seller training programs meeting such requirements that are  
8 sponsored either privately, by public community colleges, or by  
9 public or private institutions of higher education that offer a  
10 four-year undergraduate program and a degree or certificate in  
11 hotel or motel management, restaurant management, or travel or  
12 tourism management. The commission may charge an application fee  
13 to be set by the commission in such amount as is necessary to defray  
14 the expense of processing the application.

15 SECTION 3. (a) The change in law made by this Act to Section  
16 35.58, Business & Commerce Code, as added by Chapter 649, Acts of  
17 the 78th Legislature, Regular Session, 2003, applies only to an  
18 offense committed on or after the effective date of this Act. An  
19 offense committed before the effective date of this Act is covered  
20 by the law in effect at the time the offense was committed, and the  
21 former law is continued in effect for that purpose. For purposes of  
22 this section, an offense was committed before the effective date of  
23 this Act if any element of the offense was committed before that  
24 date.

25 (b) The change in law made by this Act to Section 106.14(b),  
26 Alcoholic Beverage Code, applies only to a seller training program  
27 that is conducted on or after January 1, 2006.

1 SECTION 4. This Act takes effect September 1, 2005.