

By: Elkins

H.B. No. 3243

A BILL TO BE ENTITLED

AN ACT

relating to a merchant's duty to cooperate with a law enforcement investigation of fraudulent or unauthorized use of a credit or debit card or other access device.

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

SECTION 1. Title 12, Business & Commerce Code, is amended by adding Chapter 606 to read as follows:

CHAPTER 606. INVESTIGATION OF CREDIT CARD, DEBIT CARD, OR OTHER ACCESS DEVICE FRAUD

Sec. 606.001. DEFINITIONS. In this chapter:

(1) "Access device" means a card or device issued by a financial institution that contains a magnetic stripe, microprocessor chip, or other means for storing information. The term includes a credit card, debit card, or stored value card.

(2) "Financial institution" means a bank, savings association, savings bank, or credit union maintaining an office, branch, or agency office in this state.

(3) "Merchant" means a person, other than a financial institution, transacting business in this state that accepts an access device in connection with a transaction.

Sec. 606.002. DUTY OF MERCHANT TO COOPERATE WITH INVESTIGATION. When a fraudulent or unauthorized transaction or activity involving an access device is reported to a federal, state, or local law enforcement agency, the merchant that accepted

1 the access device in connection with the transaction shall  
2 reasonably cooperate with the law enforcement agency in the  
3 investigation of that transaction or activity. For purposes of  
4 this subsection, reasonable cooperation includes:

5 (1) facilitating an interview of relevant personnel;  
6 and

7 (2) producing security or surveillance information,  
8 if any, with regard to the unauthorized transaction or activity.

9 Sec. 606.003. ACTION AGAINST MERCHANT. (a) A financial  
10 institution may bring an action against a merchant that accepts an  
11 access device in connection with a fraudulent or unauthorized  
12 transaction if at the time of the investigation, the merchant  
13 wilfully refuses to reasonably cooperate with a law enforcement  
14 agency as required under Section 606.002.

15 (b) A financial institution that brings an action under this  
16 section may recover actual damages arising from the merchant's  
17 violation of this chapter. Actual damages include any cost  
18 incurred by the financial institution in connection with:

19 (1) the cancellation or reissuance of an access device  
20 affected by the fraudulent or unauthorized transaction or activity;  
21 and

22 (2) a refund or credit made to an account holder to  
23 cover the cost of any fraudulent or unauthorized transaction or  
24 activity.

25 SECTION 2. This Act takes effect September 1, 2011.