

By: Raymond

H.B. No. 4020

A BILL TO BE ENTITLED

AN ACT

relating to the security of certain financial information and liability for certain security breaches.

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

SECTION 1. Subchapter B, Chapter 521, Business & Commerce Code, is amended by adding Section 521.0521 to read as follows:

Sec. 521.0521. BUSINESS DUTIES REGARDING CERTAIN PAYMENT INFORMATION. (a) In this section:

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

(2) "Breach of system security" has the meaning assigned by Section 521.053.

(3) "Card security code" means the three-digit or four-digit value that is printed on an access device or contained in the microprocessor chip or magnetic strip of an access device and is used to validate access device information during the authorization process.

(4) "Financial institution" has the meaning assigned by Section 201.101, Finance Code.

(5) "Magnetic strip data" means data contained in the magnetic strip of an access device.

(6) "Microprocessor chip data" means data contained in

1 the microprocessor chip of an access device.

2 (7) "PIN" means a personal identification code that  
3 identifies the cardholder.

4 (8) "PIN verification code data" means data used to  
5 verify cardholder identity when a PIN is used in a transaction.

6 (9) "Service provider" means a person or entity that  
7 stores, processes, or transmits access device data on behalf of a  
8 business.

9 (b) Except as provided by this subsection, a business that  
10 accepts an access device in connection with a transaction may not,  
11 after authorization, retain the card security code, the PIN  
12 verification code data, or the full contents of any track of  
13 magnetic strip data. In the case of a PIN debit transaction, a code  
14 or data described by this subsection may be retained for not more  
15 than 48 hours after authorization.

16 (c) A business is in violation of Subsection (b) if its  
17 service provider retains a code or data described by that  
18 subsection after authorization except as permitted by that  
19 subsection.

20 (d) If there is a breach of system security of a business  
21 that has violated this section or a breach of system security of the  
22 business's service provider, the business shall reimburse the  
23 financial institution that issued any access device affected by the  
24 breach for the costs of reasonable actions undertaken by the  
25 financial institution as a result of the breach to protect the  
26 information of its cardholders or to continue to provide services  
27 to cardholders, including any cost incurred in connection with:

1           (1) the cancellation or reissuance of any access  
2 device affected by the breach;

3           (2) the closure of any deposit, transaction, share  
4 draft, or other account affected by the breach and any action to  
5 stop payments or block transactions with respect to the account;

6           (3) the opening or reopening of any deposit,  
7 transaction, share draft, or other account affected by the breach;

8           (4) any refund or credit made to a cardholder to cover  
9 the cost of any unauthorized transaction relating to the breach;  
10 and

11           (5) the notification of cardholders affected by the  
12 breach.

13           (e) In addition to reimbursement under Subsection (d), the  
14 financial institution is entitled to recover costs for damages paid  
15 by the financial institution to cardholders injured by a breach of  
16 system security of a business that has violated this section or a  
17 breach of system security of the business's service provider.

18           (f) Costs that may be recovered under this section do not  
19 include any costs recovered from a credit card company by a  
20 financial institution.

21           (g) The remedies provided by this section are cumulative and  
22 do not restrict any other right or remedy otherwise available to the  
23 financial institution.

24           SECTION 2. (a) Section 521.0521, Business & Commerce Code,  
25 as added by this Act, applies to the retention of codes and data  
26 arising from transactions authorized before the effective date of  
27 this Act as provided by this section.

1           (b) For transactions authorized before the effective date  
2 of this Act, a business or its service provider may not retain any  
3 codes or data described by Section 521.0521(b), Business & Commerce  
4 Code, as added by this Act, other than codes or data arising from a  
5 PIN debit transaction that occurred less than 48 hours before the  
6 effective date of the Act.

7           (c) Codes and data arising from a PIN debit transaction  
8 authorized less than 48 hours before the effective date of this Act  
9 may not be retained for more than 48 hours after authorization.

10           SECTION 3. This Act takes effect September 1, 2015.