By:  Perez, Longoria, Moody, Goldman H.B. No. 2625

A BILL TO BE ENTITLED

AN ACT

relating to creating the criminal offense of fraudulent use or possession of credit card or debit card information.

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

SECTION 1.  Subchapter C, Chapter 32, Penal Code, is amended by adding Section 32.315 to read as follows:

Sec. 32.315.  FRAUDULENT USE OR POSSESSION OF CREDIT CARD OR DEBIT CARD INFORMATION. (a) In this section:

(1)  "Counterfeit credit card or debit card" means a:

(A)  credit card or debit card that:

(i)  purports on its face to have been issued by an issuer that did not issue the card;

(ii)  has been altered to contain a digital imprint other than that which was placed on the card by the issuer;

(iii)  contains a digital imprint with account information or account holder information differing from that which is printed or embossed on the card; or

(iv)  has been altered to change the account information or account holder information on the face of the card from that which was printed or embossed on the card by the issuer; or

(B)  card, other than one issued as a credit card or debit card, that has been altered to contain the digital imprint of a credit card or debit card.

(2)  "Credit card" and "debit card" have the meanings assigned by Section 32.31.

(3)  "Digital imprint" means the digital data placed on a credit card or debit card or on a counterfeit credit card or debit card.

(b)  A person commits an offense if the person, with the intent to harm or defraud another, obtains, possesses, transfers, or uses:

(1)  a counterfeit credit card or debit card;

(2)  the number and expiration date of a credit card or debit card without the consent of the account holder; or

(3)  the data stored on the digital imprint of a credit card or debit card without the consent of the account holder.

(c)  If an actor possessed five or more of an item described by Subsection (b)(2) or (3), a rebuttable presumption exists that the actor possessed each item without the consent of the account holder.

(d)  The presumption established under Subsection (c) does not apply to a business or other commercial entity or a government agency that is engaged in a business activity or governmental function that does not violate a penal law of this state.

(e)  An offense under this section is:

(1)  a state jail felony if the number of items obtained, possessed, transferred, or used is less than five;

(2)  a felony of the third degree if the number of items obtained, possessed, transferred, or used is five or more but less than 10;

(3)  a felony of the second degree if the number of items obtained, possessed, transferred, or used is 10 or more but less than 50; or

(4)  a felony of the first degree if the number of items obtained, possessed, transferred, or used is 50 or more.

(f)  If a court orders a defendant convicted of an offense under this section to make restitution to a victim of the offense, the court may order the defendant to reimburse the victim for lost income or other expenses, other than attorney's fees, incurred as a result of the offense.

(g)  If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

SECTION 2.  The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3.  This Act takes effect September 1, 2019.