86R13885 ADM-F

By:  Hughes S.B. No. 909

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of certain criminal offenses involving fraud.

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

SECTION 1.  Chapter 13, Code of Criminal Procedure, is amended by adding Article 13.291 to read as follows:

Art. 13.291.  CREDIT CARD OR DEBIT CARD ABUSE. An offense under Section 32.31, Penal Code, may be prosecuted in any county in which the offense was committed or in the county of residence for any person whose credit card or debit card was unlawfully possessed or used by the defendant.

SECTION 2.  Article 38.19, Code of Criminal Procedure, is amended to read as follows:

Art. 38.19.  INTENT TO DEFRAUD: CERTAIN OFFENSES [~~IN FORGERY~~]. (a) This article applies to the trial of an offense under any of the following sections of the Penal Code:

(1)  Section 32.21 (Forgery);

(2)  Section 32.31 (Credit Card or Debit Card Abuse); or

(3)  Section 32.51 (Fraudulent Use or Possession of Identifying Information).

(b)  In the trial [~~trials~~] of an offense to which this article applies [~~forgery~~], the attorney representing the state is not required to prove [~~it need not be proved~~] that the defendant committed the act with intent to defraud any particular person. It is [~~shall be~~] sufficient to prove that the offense [~~forgery~~] was, in its nature, calculated to injure or defraud any of the sovereignties, bodies corporate or politic, officers or persons, named in the definition of the offense [~~forgery~~] in the Penal Code.

SECTION 3.  Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.391 to read as follows:

Art. 38.391.  EVIDENCE IN PROSECUTION OF FRAUDULENT USE OR POSSESSION OF IDENTIFYING INFORMATION. In a prosecution of an offense under Section 32.51, Penal Code, in which the defendant is alleged to have possessed the identifying information of more than one person, the attorney representing the state is not required to prove by direct evidence that each person did not consent to the defendant's conduct. It is sufficient if the lack of consent is proven by either direct or circumstantial evidence.

SECTION 4.  Section 32.31(a), Penal Code, is amended by adding Subdivisions (8) and (9) to read as follows:

(8)  "Counterfeit credit card or debit card" means a credit card or debit card that:

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

(B)  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.

(9)  "Digital imprint" means the digital data placed on a credit card or debit card by the issuer.

SECTION 5.  Section 32.31, Penal Code, is amended by adding Subsection (b-1) to read as follows:

(b-1)  A person commits an offense if the person knowingly possesses, uses, transfers, or receives a counterfeit credit card or debit card.

SECTION 6.  Section 32.51(a), Penal Code, is amended to read as follows:

(a)  In this section:

(1)  "Identifying information" means information that alone or in conjunction with other information identifies a person, including a person's:

(A)  name and date of birth;

(B)  unique biometric data, including the person's fingerprint, voice print, or retina or iris image;

(C)  unique electronic identification number, address, routing code, or financial institution account number;

(D)  account [~~telecommunication identifying information or~~] access device information; and

(E)  social security number or other government-issued identification number.

(2)  "Account [~~Telecommunication~~] access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another account [~~telecommunication~~] access device may be used to:

(A)  obtain money, goods, services, or other thing of value; or

(B)  initiate a transfer of funds other than a transfer originated solely by paper instrument.

SECTION 7.  The changes in law made by this Act in amending Article 38.19, Code of Criminal Procedure, and adding Articles 13.291 and 38.391, Code of Criminal Procedure, apply only to a criminal proceeding that commences on or after the effective date of this Act. A criminal proceeding that commenced before the effective date of this Act is governed by the law in effect on the date the proceeding commenced, and the former law is continued in effect for that purpose.

SECTION 8.  The change in law made by this Act to Section 32.51(a), Penal Code, 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 9.  This Act takes effect September 1, 2019.