

By: Perez, Longoria, Moody, Goldman

H.B. No. 2625

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

10 (A) credit card or debit card that:

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

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

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

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

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

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

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

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

9 (1) a counterfeit credit card or debit card;

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

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

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

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

22 (e) An offense under this section is:

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

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

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

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

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

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

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

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