

By: Perez

H.B. No. 2625

A BILL TO BE ENTITLED

AN ACT

relating to creating the criminal offense of mass 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. MASS FRAUDULENT USE OR POSSESSION OF CREDIT CARD OR DEBIT CARD INFORMATION. (a) In this section:

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

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

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

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

(D) 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.

(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 by the issuer.

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

4 (1) five or more counterfeit credit cards or debit
5 cards;

6 (2) the numbers and expiration dates of five or more
7 credit cards or debit cards without the consent of the account
8 holder; and

9 (3) the data stored on the digital imprint of five or
10 more credit cards or debit cards without the consent of the account
11 holder.

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

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

20 (e) An offense under this section is:

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

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

27 (3) a felony of the first degree if the number of items

1 obtained, possessed, transferred, or used is 50 or more.

2 (f) An offense described for purposes of punishment by
3 Subsection (e)(1) or (2) is increased to the next higher category of
4 offense if it is shown on the trial of the offense that the offense
5 was committed against one or more elderly individuals as defined by
6 Section 22.04.

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

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

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

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