

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

1 committed the act with intent to defraud any particular person. It  
2 is [~~shall be~~] sufficient to prove that the offense [~~forgery~~] was, in  
3 its nature, calculated to injure or defraud any of the  
4 sovereignties, bodies corporate or politic, officers or persons,  
5 named in the definition of the offense [~~forgery~~] in the Penal Code.

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

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

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

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

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

23 (B) has been altered to change the account  
24 information or account holder information on the face of the card  
25 from that which was printed or embossed on the card by the issuer.

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

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

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

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

8 (a) In this section:

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

12 (A) name and date of birth;

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

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

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

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

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

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

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

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

13           SECTION 8. The change in law made by this Act to Section  
14 32.51(a), Penal Code, applies only to an offense committed on or  
15 after the effective date of this Act. An offense committed before  
16 the effective date of this Act is governed by the law in effect on  
17 the date the offense was committed, and the former law is continued  
18 in effect for that purpose. For purposes of this section, an  
19 offense was committed before the effective date of this Act if any  
20 element of the offense occurred before that date.

21           SECTION 9. This Act takes effect September 1, 2019.