

BILL ANALYSIS

Senate Research Center
89R23320 BCH-F

C.S.S.B. 2371
By: Nichols
Criminal Justice
4/15/2025
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Financial Crimes Intelligence Center (FCIC), housed within the Texas Department of Licensing and Regulation (TDLR), serves as the state's central hub for coordinating law enforcement and state agency responses to financial crimes involving skimming devices—particularly those found on motor fuel payment terminals. These crimes are often perpetrated by organized, transnational criminal networks and pose a growing threat to consumers and businesses across Texas.

Under current law, when a skimmer is discovered on a fuel dispenser's payment terminal, the terminal's owner or operator must report the device to both a law enforcement agency and TDLR. TDLR—tasked with regulating motor fuel metering and quality—responds to these reports with trained technicians to assist in inspections and removal of any skimmers. However, all criminal investigations stemming from these incidents are ultimately referred to the FCIC and local law enforcement.

As skimming technology evolves, similar fraudulent activity is increasingly being detected at other types of electronic terminals, including point-of-sale (POS) terminals, virtual currency kiosks, and automated teller machines (ATMs). S.B. 2371 updates Texas law to reflect this shift in criminal behavior by creating a similar reporting and investigation framework for these other types of terminals. Rather than involving TDLR, which lacks the specialized personnel to inspect POS terminals, virtual currency kiosks, and ATMs, the bill directs reports of suspected skimming activity directly to law enforcement and the FCIC. This targeted approach allows for faster, more efficient responses to emerging threats and ensures that criminal investigations are initiated by the entities best equipped to handle them.

Major Provisions:

- Definition of "electronic terminal."
- Defines "electronic terminal" to include POS terminals, virtual currency kiosks, and ATMs.
- Reporting and Inspection Requirements
- Mimics the current reporting procedures for motor fuel terminals. If a skimmer is found on an electronic terminal, the merchant who becomes aware of it must report it to a law enforcement agency and the FCIC.
- The terminal must be disabled to prevent tampering until law enforcement or the FCIC can inspect and remove the device.
- Law enforcement and the FCIC are authorized to inspect the terminal and investigate the report.

Committee Substitute:

A committee substitute will be offered to make two corrections:

1. Strike language related to motor fuel unattended payment terminals. In the filed bill version, the definition of "electronic terminal" inadvertently included "motor fuel unattended payment terminals," which are already governed by a separate, though similar, set of reporting procedures under current law.

2. Remove language that initially exempted ATMs affiliated with federally insured financial institutions from the inspection requirement, ensuring uniform enforcement.

C.S.S.B. 2371 amends current law relating to skimmers on electronic terminals, authorizes a civil penalty, and creates criminal offenses.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the financial crimes intelligence center in SECTION 1 (Section 607A.003, Business & Commerce Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 12, Business & Commerce Code, by adding Chapter 607A, as follows:

CHAPTER 607A. PAYMENT CARD SKIMMERS ON ELECTRONIC TERMINALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 607A.001. DEFINITIONS. Defines "automated teller machine," "center," "electronic terminal," "financial institution," "institution of higher education," "merchant," "payment card," "payment card issuer," "payment card network," "service company," "service technician," "skimmer," and "virtual currency."

Sec. 607A.002. ADMINISTRATION AND ENFORCEMENT OF CHAPTER. Requires the financial crimes intelligence center (center) to administer and enforce this chapter.

Sec. 607A.003. RULES. Requires the center to adopt rules for administering this chapter.

SUBCHAPTER B. DUTIES FOR USE OF CERTAIN ELECTRONIC TERMINALS

Sec. 607A.051. REQUIRED NOTICE OF SKIMMER DISCOVERY. (a) Requires a service technician or service company that employs the technician, if the service technician discovers a skimmer in or on an electronic terminal, to notify the center and the merchant of the skimmer in the manner prescribed by center rule.

(b) Requires a merchant, if the merchant discovers a skimmer in or on an electronic terminal or is notified of the presence of a skimmer, in the manner prescribed by center rule, to disable, or cause to be disabled, the electronic terminal on which the skimmer was discovered, notify a law enforcement agency and the center that a skimmer has been detected, and take appropriate measures to protect the electronic terminal from tampering until the center or law enforcement agency arrives and the skimmer is removed.

Sec. 607A.052. REPORT TO CENTER. Authorizes the center to accept a report of a suspected skimmer from any interested person, including a law enforcement agency, a financial institution, a payment card issuer, a service technician or service company, a member of the public, and a payment card network.

Sec. 607A.053. INVESTIGATION OF SKIMMER REPORT. (a) Authorizes the center, on receipt of a report under Section 607A.051 or 607A.052, to conduct an inspection for the presence of suspected skimmers.

(b) Requires the center to coordinate with law enforcement agencies in conducting an investigation of the report.

(c) Authorizes the center, if the skimmer is reported to be located on an electronic terminal, to inspect, directly or in coordination with a law enforcement agency,

the electronic terminal that is the subject of the report and any other electronic terminal located at the same place of business.

(d) Requires a merchant to cooperate with the center or law enforcement agency during an investigation of a skimmer discovered or reported at the merchant's place of business and allow the inspection and alteration of an electronic terminal at the place of business as necessary.

Sec. 607A.054. CONFIDENTIALITY. (a) Provides that, except as otherwise provided by this section, information is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code, if the information is from a report received by the center under Section 607A.051 or 607A.052 or prepared or compiled by the center in connection with the report or an investigation conducted under this subchapter.

(b) Authorizes information described by Subsection (a) to be disclosed to certain persons or entities.

(c) Provides that the disclosure of information under Subsection (b) is not a voluntary disclosure for purposes of Section 552.007 (Voluntary Disclosure of Certain Information When Disclosure Not Required), Government Code.

(d) Provides that, on the dismissal or final resolution of a report by the center, information described by Subsection (a) is subject to disclosure under Chapter 552, Government Code, unless the information is subject to Section 31.301 (Disclosure by Department Prohibited), Finance Code, or can be classified as confidential information under applicable rules.

(e) Provides that, notwithstanding Subsection (a), a law enforcement agency or the center:

(1) subject to Subdivision (2), is authorized to disclose to the public information made confidential by that subdivision if the law enforcement agency or the chief intelligence coordinator for the center determines the disclosure of the information furthers a law enforcement purpose; and

(2) is prohibited from disclosing to the public the identity of a person who submits a report of a suspected skimmer to the center under Section 607A.051 or 607A.052.

SUBCHAPTER C. ENFORCEMENT

Sec. 607A.101. CIVIL PENALTY. (a) Provides that a person who violates this chapter or a rule adopted under this chapter is liable to this state for a civil penalty. Prohibits a civil penalty assessed under this subsection from exceeding \$5,000 per day for each violation.

(b) Authorizes the attorney general to bring an action to collect a civil penalty under this section.

(c) Requires that an action filed under this section be filed in a district court in Travis County.

(d) Authorizes the attorney general and the department to recover reasonable expenses incurred in obtaining injunctive relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Sec. 607A.102. CRIMINAL OFFENSES. (a) Provides that a person commits an offense if the person refuses to allow an inspection of an electronic terminal at the merchant's place of business in violation of Section 607A.053. Provides that an offense under this subsection is a Class C misdemeanor.

- (b) Provides that a person commits an offense if the person negligently or recklessly disposes of a skimmer that was installed on an electronic terminal by another person. Provides that an offense under this subsection is a Class B misdemeanor.
- (c) Provides that a person commits an offense if, knowing that an investigation is ongoing or that a criminal proceeding has been commenced and is pending, the person disposes of a skimmer installed on an electronic terminal by another person. Provides that an offense under this subsection is a felony of the third degree.

SECTION 2. Effective date: upon passage or September 1, 2025.