

By: Perez of Harris

H.B. No. 4853

Substitute the following for H.B. No. 4853:

By: Lambert

C.S.H.B. No. 4853

A BILL TO BE ENTITLED

AN ACT

relating to skimmers on electronic terminals; authorizing a civil penalty; creating criminal offenses.

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

SECTION 1. Title 12, Business & Commerce Code, is amended by adding Chapter 607A to read as follows:

CHAPTER 607A. PAYMENT CARD SKIMMERS ON ELECTRONIC TERMINALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 607A.001. DEFINITIONS. In this chapter:

(1) "Automated teller machine" has the meaning assigned by Section 31.03, Penal Code.

(2) "Center" means the financial crimes intelligence center established under Chapter 2312, Occupations Code.

(3) "Electronic terminal" means an electronic device, other than a telephone operated by a consumer, through which a consumer may initiate an electronic funds transfer. The term includes a point-of-sale terminal, virtual currency terminal, automated teller machine, and cash dispensing machine.

(4) "Financial institution" has the meaning assigned by Section 277.001, Finance Code.

(5) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(6) "Merchant" has the meaning assigned by Section 2.104.

1 (7) "Payment card" has the meaning assigned by Section
2 522.001.

3 (8) "Payment card issuer" means a lender, including a
4 financial institution, or a merchant that receives applications and
5 issues payment cards to individuals.

6 (9) "Payment card network" means an entity that
7 directly, or through a licensed member, processor, or agent,
8 provides the proprietary services, infrastructure, and software
9 that:

10 (A) route information to conduct debit card or
11 credit card transaction authorization, clearance, and settlement;
12 and

13 (B) the entity uses to accept as a form of payment
14 a brand of debit card, credit card, or other device to be used to
15 carry out debit or credit transactions.

16 (10) "Service company" and "service technician" have
17 the meanings assigned by Section 2310.151, Occupations Code.

18 (11) "Skimmer" means a wire or electronic device
19 capable of unlawfully intercepting electronic communications or
20 data to perpetrate fraud.

21 (12) "Virtual currency" means an intangible
22 electronic medium of exchange, unit of account, or store of value.

23 Sec. 607A.002. ADMINISTRATION AND ENFORCEMENT OF CHAPTER.
24 The center shall administer and enforce this chapter.

25 Sec. 607A.003. RULES. The center shall adopt rules for
26 administering this chapter.

1 SUBCHAPTER B. DUTIES FOR USE OF CERTAIN ELECTRONIC TERMINALS

2 Sec. 607A.051. REQUIRED NOTICE OF SKIMMER DISCOVERY. (a)

3 If a service technician discovers a skimmer in or on an electronic
4 terminal, the service technician or service company that employs
5 the technician shall notify the center and the merchant of the
6 skimmer in the manner prescribed by center rule.

7 (b) If a merchant discovers a skimmer in or on an electronic
8 terminal or is notified of the presence of a skimmer, the merchant
9 shall, in the manner prescribed by center rule:

10 (1) disable, or cause to be disabled, the electronic
11 terminal on which the skimmer was discovered;

12 (2) notify a law enforcement agency and the center
13 that a skimmer has been detected; and

14 (3) take appropriate measures to protect the
15 electronic terminal from tampering until the center or law
16 enforcement agency arrives and the skimmer is removed.

17 Sec. 607A.052. REPORT TO CENTER. The center may accept a
18 report of a suspected skimmer from any interested person,
19 including:

20 (1) a law enforcement agency;

21 (2) a financial institution;

22 (3) a payment card issuer;

23 (4) a service technician or service company;

24 (5) a member of the public; and

25 (6) a payment card network.

26 Sec. 607A.053. INVESTIGATION OF SKIMMER REPORT. (a) On
27 receipt of a report under Section 607A.051 or 607A.052, the center

1 may conduct an inspection for the presence of suspected skimmers.

2 (b) The center shall coordinate with law enforcement
3 agencies in conducting an investigation of the report.

4 (c) If the skimmer is reported to be located on an
5 electronic terminal, the center may inspect, directly or in
6 coordination with a law enforcement agency, the electronic terminal
7 that is the subject of the report and any other electronic terminal
8 located at the same place of business.

9 (d) A merchant shall cooperate with the center or law
10 enforcement agency during an investigation of a skimmer discovered
11 or reported at the merchant's place of business and allow the
12 inspection and alteration of an electronic terminal at the place of
13 business as necessary.

14 Sec. 607A.054. CONFIDENTIALITY. (a) Except as otherwise
15 provided by this section, information is confidential and not
16 subject to disclosure under Chapter 552, Government Code, if the
17 information is:

18 (1) from a report received by the center under Section
19 607A.051 or 607A.052; or

20 (2) prepared or compiled by the center in connection
21 with the report or an investigation conducted under this
22 subchapter.

23 (b) Information described by Subsection (a) may be
24 disclosed to:

25 (1) an institution of higher education;

26 (2) a law enforcement agency;

27 (3) a payment card issuer, a financial institution

1 that is not a payment card issuer, or a payment card network that
2 may be impacted by the use of a skimmer on an electronic terminal;

3 (4) another person if the disclosure of the
4 information is authorized or required by other law or court order;

5 (5) a trade association representing a financial
6 institution;

7 (6) a center contractor or other agent; or

8 (7) the Texas Department of Banking.

9 (c) The disclosure of information under Subsection (b) is
10 not a voluntary disclosure for purposes of Section 552.007,
11 Government Code.

12 (d) On the dismissal or final resolution of a report by the
13 center, information described by Subsection (a) is subject to
14 disclosure under Chapter 552, Government Code, unless the
15 information is subject to Section 31.301, Finance Code, or can be
16 classified as confidential information under applicable rules.

17 (e) Notwithstanding Subsection (a), a law enforcement
18 agency or the center:

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

24 (2) may not disclose to the public the identity of a
25 person who submits a report of a suspected skimmer to the center
26 under Section 607A.051 or 607A.052.

SUBCHAPTER C. ENFORCEMENT

Sec. 607A.101. CIVIL PENALTY. (a) A person who violates this chapter or a rule adopted under this chapter is liable to this state for a civil penalty. A civil penalty assessed under this subsection may not exceed \$5,000 per day for each violation.

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

(c) An action filed under this section must be filed in a district court in Travis County.

(d) The attorney general and the department may 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) 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. An offense under this subsection is a Class C misdemeanor.

(b) 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. An offense under this subsection is a Class B misdemeanor.

(c) 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. An offense under this subsection is a felony of the third degree.

1 SECTION 2. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2025.