

By the Committee on Criminal Justice; and Senator Hutson

591-00707-16

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1 A bill to be entitled

2 An act relating to offenses involving electronic  
3 benefits transfer cards; amending s. 414.39, F.S.;  
4 specifying acts that constitute trafficking in food  
5 assistance benefits cards and are subject to criminal  
6 penalties; providing criminal penalties; reenacting s.  
7 921.0022(3)(a), F.S., relating to level 1 of the  
8 offense severity ranking chart, to incorporate the  
9 amendment made to s. 414.39, F.S., in a reference  
10 thereto; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14 Section 1. Subsection (2) of section 414.39, Florida  
15 Statutes, is amended to read:

16 414.39 Fraud.—

17 (2) (a) Any person who knowingly:

18 1. ~~(a)~~ Uses, transfers, acquires, traffics, alters, forges,  
19 or possesses;

20 2. ~~(b)~~ Attempts to use, transfer, acquire, traffic, alter,  
21 forge, or possess; or

22 3. ~~(c)~~ Aids and abets another person in the use, transfer,  
23 acquisition, traffic, alteration, forgery, or possession of,

24  
25 a food assistance identification card, an authorization,  
26 including, but not limited to, an electronic authorization, for  
27 the expenditure of food assistance benefits, a certificate of  
28 eligibility for medical services, or a Medicaid identification  
29 card in any manner not authorized by law commits a crime and

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30 shall be punished as provided in subsection (5).

31 (b) As used in this subsection, the term "traffic"  
32 includes:

33 1. Buying, selling, stealing, or otherwise effecting an  
34 exchange of food assistance benefits issued and accessed via  
35 electronic benefits transfer (EBT) cards, electronic benefits  
36 transfer (EBT) card numbers and personal identification numbers  
37 (PINs), or by manual voucher and signature, for cash or  
38 consideration other than eligible food, either directly,  
39 indirectly, in complicity or collusion with others, or acting  
40 alone;

41 2. Attempting to buy, sell, steal, or otherwise effect an  
42 exchange of food assistance benefits issued and accessed via  
43 electronic benefits transfer (EBT) cards, electronic benefits  
44 transfer (EBT) card numbers and personal identification numbers  
45 (PINs), or by manual voucher and signature, for cash or  
46 consideration other than eligible food, either directly,  
47 indirectly, in complicity or collusion with others, or acting  
48 alone;

49 3. Exchanging firearms, ammunition, explosives, or  
50 controlled substances, as defined in s. 893.02, for food  
51 assistance benefits;

52 4. Purchasing with food assistance benefits a product with  
53 the intent of obtaining cash or consideration other than  
54 eligible food by reselling the product, and subsequently  
55 intentionally reselling the product purchased with food  
56 assistance benefits in exchange for cash or consideration other  
57 than eligible food; or

58 5. Intentionally purchasing products originally purchased

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59 with food assistance benefits in exchange for cash or  
 60 consideration other than eligible food.

61 (c) Any person who has possession of two or more electronic  
 62 benefits transfer (EBT) cards issued to other persons and who  
 63 sells or attempts to sell one or more of these cards commits a  
 64 misdemeanor of the first degree, punishable as provided in s.  
 65 775.082 or s. 775.083. A second or subsequent violation of this  
 66 paragraph constitutes a felony of the third degree, punishable  
 67 as provided in s. 775.082, s. 775.083, or s. 775.084.

68 Section 2. For the purpose of incorporating the amendment  
 69 made by this act to section 414.39, Florida Statutes, in a  
 70 reference thereto, paragraph (a) of subsection (3) of section  
 71 921.0022, Florida Statutes, is reenacted to read:

72 921.0022 Criminal Punishment Code; offense severity ranking  
 73 chart.—

74 (3) OFFENSE SEVERITY RANKING CHART

75 (a) LEVEL 1

76

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales

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taxes, amount greater than \$300 but less than \$20,000.

316.1935 (1)

3rd

Fleeing or attempting to elude law enforcement officer.

319.30 (5)

3rd

Sell, exchange, give away certificate of title or identification number plate.

319.35 (1) (a)

3rd

Tamper, adjust, change, etc., an odometer.

320.26 (1) (a)

3rd

Counterfeit, manufacture, or sell registration license plates or validation stickers.

322.212  
(1) (a) - (c)

3rd

Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.

322.212 (4)

3rd

Supply or aid in supplying unauthorized driver license or identification card.

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87	322.212 (5) (a)	3rd	False application for driver license or identification card.
88	414.39 (2)	3rd	Unauthorized use, possession, forgery, or alteration of food assistance program, Medicaid ID, value greater than \$200.
89	414.39 (3) (a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
90	443.071 (1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
91	509.151 (1)	3rd	Defraud an innkeeper, food or lodging value greater than \$300.
92	517.302 (1)	3rd	Violation of the Florida Securities and Investor Protection Act.
	562.27 (1)	3rd	Possess still or still

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93			apparatus.
	713.69	3rd	Tenant removes property upon which lien has accrued, value more than \$50.
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	812.014 (3) (c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
95			
	812.081 (2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
96			
	815.04 (5) (a)	3rd	Offense against intellectual property (i.e., computer programs, data).
97			
	817.52 (2)	3rd	Hiring with intent to defraud, motor vehicle services.
98			
	817.569 (2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
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100	826.01	3rd	Bigamy.
101	828.122 (3)	3rd	Fighting or baiting animals.
102	831.04 (1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
103	831.31 (1) (a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
104	832.041 (1)	3rd	Stopping payment with intent to defraud \$150 or more.
105	832.05 (2) (b) & (4) (c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
106	838.15 (2)	3rd	Commercial bribe receiving.
107	838.16	3rd	Commercial bribery.
	843.18	3rd	Fleeing by boat to elude a law enforcement officer.

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847.011 (1) (a) 3rd Sell, distribute, etc.,  
obscene, lewd, etc.,  
material (2nd conviction).

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849.01 3rd Keeping gambling house.

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849.09 (1) (a) - (d) 3rd Lottery; set up, promote,  
etc., or assist therein,  
conduct or advertise drawing  
for prizes, or dispose of  
property or money by means  
of lottery.

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849.23 3rd Gambling-related machines;  
"common offender" as to  
property rights.

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849.25 (2) 3rd Engaging in bookmaking.

113

860.08 3rd Interfere with a railroad  
signal.

114

860.13 (1) (a) 3rd Operate aircraft while under  
the influence.

115

893.13 (2) (a) 2. 3rd Purchase of cannabis.

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893.13 (6) (a) 3rd Possession of cannabis (more



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than 20 grams).

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934.03(1)(a)

3rd

Intercepts, or procures any other person to intercept, any wire or oral communication.

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Section 3. This act shall take effect October 1, 2016.