

By the Committees on Appropriations; and Criminal Justice; and
Senators Rodriguez, Young, and Farmer

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1 A bill to be entitled
2 An act relating to payment card offenses; amending s.
3 817.625, F.S.; revising definitions; revising
4 terminology; revising the offenses of using a scanning
5 device or reencoder with the intent to defraud;
6 prohibiting the use of a skimming device with intent
7 to defraud; prohibiting the possession, sale, or
8 delivery of a skimming device; providing criminal
9 penalties; amending s. 921.0022, F.S.; ranking the
10 offense of possessing, selling, or delivering a
11 skimming device on level 4 of the offense severity
12 ranking chart; conforming provisions to changes made
13 by the act; providing an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Section 817.625, Florida Statutes, is amended to
18 read:

19 817.625 Use of scanning device, skimming device, or
20 reencoder to defraud; possession of skimming device; penalties.-

21 (1) As used in this section, the term:

22 (d)-(a) "Scanning device" means a scanner, reader, or any
23 other electronic device that may be ~~is~~ used to access, read,
24 scan, obtain, memorize, or store, temporarily or permanently,
25 information encoded on the computer chip, magnetic strip or
26 stripe, or other storage mechanism of a payment card or from
27 another device that directly reads the information from a
28 payment card. The term does not include a skimming device.

29 (c)-(b) "Reencoder" means an electronic device that places

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30 encoded information from the computer chip, magnetic strip or
31 stripe, or other storage mechanism of a payment card onto the
32 computer chip, magnetic strip or stripe, or other storage
33 mechanism of a different payment card. The term does not include
34 a skimming device.

35 (b)~~(e)~~ "Payment card" means a credit card, charge card,
36 debit card, or any other card that is issued to an authorized
37 card user and that allows the user to obtain, purchase, or
38 receive goods, services, money, or anything else of value from a
39 merchant.

40 (a)~~(d)~~ "Merchant" means a person who receives from an
41 authorized user of a payment card, or someone the person
42 believes to be an authorized user, a payment card or information
43 from a payment card, or what the person believes to be a payment
44 card or information from a payment card, as the instrument for
45 obtaining, purchasing, or receiving goods, services, money, or
46 anything else of value from the person.

47 (e) "Skimming device" means a self-contained device that:

48 1. Is designed to read and store in the device's internal
49 memory information encoded on the computer chip, magnetic strip
50 or stripe, or other storage mechanism of a payment card or from
51 another device that directly reads the information from a
52 payment card; and

53 2. Is incapable of processing the payment card information
54 for the purpose of obtaining, purchasing, or receiving goods,
55 services, money, or anything else of value from a merchant.

56 (2) (a) It is a felony of the third degree, punishable as
57 provided in s. 775.082, s. 775.083, or s. 775.084, for a person
58 to use:

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59 1. A scanning device or skimming device to access, read,
60 obtain, memorize, or store, temporarily or permanently,
61 information encoded on the computer chip, magnetic strip or
62 stripe, or other storage mechanism of a payment card without the
63 permission of the authorized user of the payment card and with
64 the intent to defraud the authorized user, the issuer of the
65 authorized user's payment card, or a merchant.

66 2. A reencoder to place information encoded on the computer
67 chip, magnetic strip or stripe, or other storage mechanism of a
68 payment card onto the computer chip, magnetic strip or stripe,
69 or other storage mechanism of a different card without the
70 permission of the authorized user of the card from which the
71 information is being reencoded and with the intent to defraud
72 the authorized user, the issuer of the authorized user's payment
73 card, or a merchant.

74 (b) A ~~Any~~ person who violates subparagraph (a)1. or
75 subparagraph (a)2. a second or subsequent time commits a felony
76 of the second degree, punishable as provided in s. 775.082, s.
77 775.083, or s. 775.084.

78 (c) It is a felony of the third degree, punishable as
79 provided in s. 775.082, s. 775.083, or s. 775.084, for a person
80 to knowingly possess, sell, or deliver a skimming device. This
81 paragraph does not apply to the following individuals while
82 acting within the scope of their official duties:

83 1. An employee, officer, or agent of:

84 a. A law enforcement agency or criminal prosecuting
85 authority for the state or the federal government;

86 b. The state courts system as defined in s. 25.382 or the
87 federal court system; or

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c. An executive branch agency in this state.

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2. A financial or retail security investigator employed by

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a merchant.

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(d)(e) A Any person who commits a violation of this

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subsection is violates subparagraph (a)1. or subparagraph (a)2.

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~~shall also be subject to the provisions of ss. 932.701-932.7062.~~

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Section 2. Paragraphs (d) and (e) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

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921.0022 Criminal Punishment Code; offense severity ranking

96

chart.-

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(3) OFFENSE SEVERITY RANKING CHART

98

(d) LEVEL 4

100

Florida
Statute

Felony
Degree

Description

101

316.1935 (3) (a)

2nd

Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

102

499.0051 (1)

3rd

Failure to maintain or deliver transaction history, transaction information, or transaction statements.

103

499.0051 (5)

2nd

Knowing sale or delivery, or

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possession with intent to sell,
contraband prescription drugs.

104

517.07(1) 3rd Failure to register securities.

105

517.12(1) 3rd Failure of dealer, associated
person, or issuer of securities
to register.

106

784.07(2)(b) 3rd Battery of law enforcement
officer, firefighter, etc.

107

784.074(1)(c) 3rd Battery of sexually violent
predators facility staff.

108

784.075 3rd Battery on detention or
commitment facility staff.

109

784.078 3rd Battery of facility employee by
throwing, tossing, or expelling
certain fluids or materials.

110

784.08(2)(c) 3rd Battery on a person 65 years of
age or older.

111

784.081(3) 3rd Battery on specified official
or employee.

112

784.082(3) 3rd Battery by detained person on

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visitor or other detainee.

113

784.083(3) 3rd Battery on code inspector.

114

784.085 3rd Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.

115

787.03(1) 3rd Interference with custody; wrongly takes minor from appointed guardian.

116

787.04(2) 3rd Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

117

787.04(3) 3rd Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

118

787.07 3rd Human smuggling.

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790.115(1) 3rd Exhibiting firearm or weapon within 1,000 feet of a school.

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790.115 (2) (b) 3rd Possessing electric weapon or device, destructive device, or other weapon on school property.

122

790.115 (2) (c) 3rd Possessing firearm on school property.

123

800.04 (7) (c) 3rd Lewd or lascivious exhibition; offender less than 18 years.

124

810.02 (4) (a) 3rd Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.

125

810.02 (4) (b) 3rd Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

126

810.06 3rd Burglary; possession of tools.

127

810.08 (2) (c) 3rd Trespass on property, armed with firearm or dangerous weapon.

812.014 (2) (c) 3. 3rd Grand theft, 3rd degree \$10,000 or more but less than \$20,000.

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812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
817.625 (2) (a)	3rd	Fraudulent use of scanning device, <u>skimming device</u> , or reencoder.
<u>817.625 (2) (c)</u>	<u>3rd</u>	<u>Possession, sale, or delivery of skimming device.</u>
828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

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837.02 (1)	3rd	Perjury in official proceedings.
837.021 (1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Families.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).

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847.0135 (5) (c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
874.05 (1) (a)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13 (2) (a) 1.	2nd	Purchase of cocaine (or other s. 893.03(1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
914.14 (2)	3rd	Witnesses accepting bribes.
914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
(e) LEVEL 5		

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Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply,

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aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

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379.367(4) 3rd Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

161

379.407(5)(b)3. 3rd Possession of 100 or more undersized spiny lobsters.

162

381.0041(11)(b) 3rd Donate blood, plasma, or organs knowing HIV positive.

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440.10(1)(g) 2nd Failure to obtain workers' compensation coverage.

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440.105(5) 2nd Unlawful solicitation for the purpose of making workers' compensation claims.

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166	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
167	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
168	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
169	790.01 (2)	3rd	Carrying a concealed firearm.
170	790.162	2nd	Threat to throw or discharge destructive device.
171	790.163 (1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
172	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
	790.23	2nd	Felons in possession of firearms, ammunition, or

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electronic weapons or devices.

173

796.05 (1) 2nd Live on earnings of a
prostitute; 1st offense.

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800.04 (6) (c) 3rd Lewd or lascivious conduct;
offender less than 18 years of
age.

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800.04 (7) (b) 2nd Lewd or lascivious exhibition;
offender 18 years of age or
older.

176

806.111 (1) 3rd Possess, manufacture, or
dispense fire bomb with intent
to damage any structure or
property.

177

812.0145 (2) (b) 2nd Theft from person 65 years of
age or older; \$10,000 or more
but less than \$50,000.

178

812.015 (8) 3rd Retail theft; property stolen
is valued at \$300 or more and
one or more specified acts.

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812.019 (1) 2nd Stolen property; dealing in or
trafficking in.

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- 181 812.131 (2) (b) 3rd Robbery by sudden snatching.
- 182 812.16 (2) 3rd Owning, operating, or
conducting a chop shop.
- 183 817.034 (4) (a) 2. 2nd Communications fraud, value
\$20,000 to \$50,000.
- 184 817.234 (11) (b) 2nd Insurance fraud; property value
\$20,000 or more but less than
\$100,000.
- 185 817.2341 (1), 3rd Filing false financial
(2) (a) & (3) (a) statements, making false
entries of material fact or
false statements regarding
property values relating to the
solvency of an insuring entity.
- 186 817.568 (2) (b) 2nd Fraudulent use of personal
identification information;
value of benefit, services
received, payment avoided, or
amount of injury or fraud,
\$5,000 or more or use of
personal identification
information of 10 or more
persons.

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817.611(2)(a)
2nd
Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
- 188
817.625(2)(b)
2nd
Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
- 189
825.1025(4)
3rd
Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
- 190
827.071(4)
2nd
Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
- 191
827.071(5)
3rd
Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
- 191
839.13(2)(b)
2nd
Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

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843.01	3rd	Resist officer with violence to person; resist arrest with violence.
847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.

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drugs).

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893.13(1)(c)2. 2nd Sell, manufacture, or deliver
cannabis (or other s.
893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) drugs)
within 1,000 feet of a child
care facility, school, or
state, county, or municipal
park or publicly owned
recreational facility or
community center.

200

893.13(1)(d)1. 1st Sell, manufacture, or deliver
cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.
drugs) within 1,000 feet of
university.

201

893.13(1)(e)2. 2nd Sell, manufacture, or deliver
cannabis or other drug
prohibited under s.
893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) within

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1,000 feet of property used for religious services or a specified business site.

202

893.13(1)(f)1.

1st

Sell, manufacture, or deliver cocaine (or other s.

893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.

203

893.13(4)(b)

2nd

Use or hire of minor; deliver to minor other controlled substance.

204

893.1351(1)

3rd

Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

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Section 3. This act shall take effect October 1, 2017.