

SECOND REGULAR SESSION

HOUSE BILL NO. 1832

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CORNEJO.

5497H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 407.432, 407.433, and 407.436, RSMo, and to enact in lieu thereof five new sections relating to the credit user protection law, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 407.432, 407.433, and 407.436, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 407.431, 407.432, 407.433, 407.435, and 407.436, to read as follows:

407.431. The violation of any provision of sections 407.430 to 407.436 of this credit user protection law constitutes an unlawful practice under sections 407.010 to 407.130, and the violator shall be subject to all penalties, remedies, and procedures under sections 407.010 to 407.130. The attorney general shall have all powers, rights, and duties regarding violations of sections 407.430 to 407.436 as are provided in sections 407.010 to 407.130, in addition to rulemaking authority under section 407.145.

407.432. As used in sections 407.430 to 407.436, the following terms shall mean:

(1) "Acquirer", a business organization, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by credit card for merchandise;

(2) "Cardholder", the person's name on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer[;] or any agent, authorized signatory, or employee of such person;

(3) "**Chip**", an integrated circuit imbedded in a card that stores data so that the card may use the EMV payment method for transactions;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

10 (4) **"Contactless payment"**, any payment method that uses a contactless smart card,
11 **a near field communication (NFC) antenna, radio-frequency identification (RFID)**
12 **technology, or other method to remotely communicate data to a scanning device for**
13 **transactions;**

14 (5) **"Counterfeit credit card"**, any credit card which is fictitious, altered, or forged, any
15 false representation, depiction, facsimile or component of a credit card, or any credit card which
16 is stolen, obtained as part of a scheme to defraud, or otherwise unlawfully obtained, and which
17 may or may not be embossed with account information or a company logo;

18 ~~[(4)]~~ (6) **"Credit card"** ~~[or "debit card"]~~, any instrument or device, whether known as a
19 credit card, credit plate, bank service card, banking card, check guarantee card, or debit card or
20 by any other name, **that is** issued with or without a fee by an issuer for the use of the cardholder
21 in obtaining money or merchandise on credit~~;~~ **or by transferring payment from the**
22 **cardholder's checking account** or for use in an automated banking device to obtain any of the
23 services offered through the device. The presentation of a credit card account number is deemed
24 to be the presentation of a credit card. **"Credit card" shall include credit or debit cards**
25 **whose information is stored in a digital wallet for use in in-app purchases or contactless**
26 **payments;**

27 ~~[(5)]~~ (7) **"Expired credit card"**, a credit card for which the expiration date shown on it
28 has passed;

29 ~~[(6)]~~ (8) **"Issuer"**, the business organization ~~[or]~~ , financial institution, or ~~[its]~~ duly
30 authorized agent~~[-which]~~ **thereof that** issues a credit card;

31 ~~[(7)]~~ (9) **"Merchandise"**, any objects, wares, goods, commodities, intangibles, real estate,
32 services, or anything else of value;

33 ~~[(8)]~~ (10) **"Merchant"**, an owner or operator of any retail mercantile establishment, or
34 any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor
35 of such owner or operator. A merchant includes a person who receives from ~~[an authorized user~~
36 ~~of a payment card]~~ **a cardholder**, or an individual the person believes to be ~~[an authorized user]~~
37 **a cardholder**, a ~~[payment]~~ **credit** card or information from a ~~[payment]~~ **credit** card as the
38 instrument for obtaining, purchasing, or receiving goods, services, money, or anything of value
39 from the person;

40 ~~[(9)]~~ (11) **"Person"**, any natural person or his legal representative, partnership, firm,
41 for-profit or not-for-profit corporation, whether domestic or foreign, company, foundation, trust,
42 business entity or association, and any agent, employee, salesman, partner, officer, director,
43 member, stockholder, associate, trustee or cestui que trust thereof;

44 ~~[(10)]~~ (12) "Reencoder", an electronic device that places encoded information from the
45 **chip or** magnetic strip or stripe of a credit ~~[or debit]~~ card onto the **chip or** magnetic strip or
46 stripe of a different credit ~~[or debit]~~ card;

47 ~~[(11)]~~ (13) "Revoked credit card", a credit card for which permission to use it has been
48 suspended or terminated by the issuer;

49 ~~[(12)]~~ (14) "Scanning device", a scanner, reader, or any other electronic device that is
50 used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information
51 **stored in the chip or** encoded on the magnetic strip or stripe of a credit ~~[or debit]~~ card.
52 **"Scanning device" shall include devices used by a merchant for contactless payments.**

407.433. 1. No person, other than the cardholder, shall:

2 (1) Disclose more than the last five digits of a credit card ~~[or debit card]~~ account number
3 on any sales receipt provided to the cardholder for merchandise sold in this state[;

4 ~~—— (2) Use a scanning device to access, read, obtain, memorize, or store, temporarily or~~
5 ~~permanently, information encoded on the magnetic strip or stripe of a credit or debit card without~~
6 ~~the permission of the cardholder and with the intent to defraud any person, the issuer, or a~~
7 ~~merchant; or~~

8 ~~—— (3) Use a reencoder to place information encoded on the magnetic strip or stripe of a~~
9 ~~credit or debit card onto the magnetic strip or stripe of a different card without the permission~~
10 ~~of the cardholder from which the information is being reencoded and with the intent to defraud~~
11 ~~any person, the issuer, or a merchant].~~

12 2. Any person who knowingly violates this section is guilty of an infraction and any
13 second or subsequent violation of this section is a class A misdemeanor.

14 3. It shall not be a violation of subdivision (1) of subsection 1 of this section if:

15 (1) The sole means of recording the credit card number ~~[or debit card number]~~ is by
16 handwriting or, prior to January 1, 2005, by an imprint of the credit card ~~[or debit card]~~; and

17 (2) For handwritten or imprinted copies of credit card ~~[or debit card]~~ receipts, only the
18 merchant's copy of the receipt lists more than the last five digits of the account number.

19 4. This section shall become effective on January 1, 2003, and applies to any cash
20 register or other machine or device that prints or imprints receipts of credit card ~~[or debit card]~~
21 transactions and which is placed into service on or after January 1, 2003. Any cash register or
22 other machine or device that prints or imprints receipts on credit card ~~[or debit card]~~ transactions
23 and which is placed in service prior to January 1, 2003, shall be subject to the provisions of this
24 section on or after January 1, 2005.

407.435. 1. A person commits the offense of illegal use of a card scanner if the
2 **person:**

3 **(1) Directly or indirectly uses a scanning device to access, read, obtain, memorize,**
4 **or store, temporarily or permanently, information stored in the chip or encoded on the**
5 **magnetic strip or stripe of a credit card without the permission of the cardholder, the**
6 **credit card issuer, or a merchant;**

7 **(2) Possesses a scanning device with the intent to defraud a cardholder, credit card**
8 **issuer, or merchant or possesses a scanning device with the knowledge that some other**
9 **person intends to use the scanning device to defraud a cardholder, credit card issuer, or**
10 **merchant;**

11 **(3) Directly or indirectly uses a reencoder to copy a credit card without the**
12 **permission of the cardholder of the card from which the information is being reencoded**
13 **and does so with the intent to defraud the cardholder, the credit card issuer, or a**
14 **merchant; or**

15 **(4) Possesses a reencoder with the intent to defraud a cardholder, credit card issuer,**
16 **or merchant or possesses a reencoder with the knowledge that some other person intends**
17 **to use the reencoder to defraud a cardholder, credit card issuer, or merchant.**

18 **2. The offense of illegal use of a card scanner is a class D felony. However, a second**
19 **or subsequent offense arising from a separate incident is a class C felony.**

 407.436. [~~1. Any person who willfully and knowingly, and with the intent to defraud,~~
2 ~~engages in any practice declared to be an unlawful practice in sections 407.430 to 407.436 of this~~
3 ~~credit user protection law shall be guilty of a class E felony.~~

4 ~~———2. The violation of any provision of sections 407.430 to 407.436 of this credit user~~
5 ~~protection law constitutes an unlawful practice pursuant to sections 407.010 to 407.130, and the~~
6 ~~violation shall be subject to all penalties, remedies and procedures provided in sections 407.010~~
7 ~~to 407.130. The attorney general shall have all powers, rights, and duties regarding violations~~
8 ~~of sections 407.430 to 407.436 as are provided in sections 407.010 to 407.130, in addition to~~
9 ~~rulemaking authority as provided in section 407.145.] **A person commits the offense of**
10 **defacing a credit card reader if a person damages, defaces, alters, or destroys a scanning**
11 **device and the person has no right to do so. The offense of defacing a credit card reader**
12 **is a class A misdemeanor.**~~

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