



State of Wisconsin
2017 - 2018 LEGISLATURE

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2017 SENATE BILL 133

March 29, 2017 - Introduced by Senators COWLES, CARPENTER, CRAIG, MARKLEIN, MOULTON, OLSEN, L. TAYLOR, VINEHOUT and TESTIN, cosponsored by Representatives SUMMERFIELD, E. BROOKS, R. BROOKS, FELZKOWSKI, HORLACHER, KATSMAN, KITCHENS, KULP, MURPHY, NOVAK, RIPP, SINICKI, SKOWRONSKI, SPIROS, STEFFEN, STUCK, SWEARINGEN, TITTL, TUSLER and ALLEN. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to create* 895.501 and 943.202 of the statutes; **relating to:** possession
2 of or use of a credit card scanner, providing civil immunity for sellers or
3 distributors of fuel for scanners installed on pumps, and providing criminal
4 penalties.

Analysis by the Legislative Reference Bureau

This bill creates several crimes relating to credit card scanners and identity theft. First, this bill makes it a Class I felony to possess a credit card scanner with the intent to commit identity theft. Second, this bill makes it a Class H felony to possess a credit card scanner with the intent to transfer the scanner to another, knowing that the transferee will use it to commit identity theft. Third, this bill makes it a Class H felony to use or attempt to use a credit card scanner to commit identity theft, except that, if the person obtains credit, money, goods, services, or something else of value from the use, he or she is guilty of a Class G felony.

Under the bill, a seller of motor vehicle fuel who uses credit or debit card-operated fuel pumps and an owner or operator of automated teller machines is immune from civil liability for unauthorized credit card reencoders or scanning devices that are installed on his or her machines.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 895.501 of the statutes is created to read:

2 **895.501 Civil liability exemption; credit card reencoders and scanning**
3 **devices. (1)** In this section:

4 (a) “Automated teller machine” has the meaning given in s. 134.85 (1) (a).

5 (b) “Credit card” has the meaning given in s. 943.202 (1) (b).

6 (c) “Reencoder” has the meaning given in s. 943.202 (1) (c).

7 (d) “Scanning device” has the meaning given in s. 943.202 (1) (d).

8 **(2)** Any person who sells or distributes motor vehicle fuel and who dispenses
9 that fuel from a pump capable of reading a credit card and any person who owns or
10 is responsible for an automated teller machine is immune from civil liability for the
11 unauthorized access, storage, or use of credit card information by another person by
12 means of a credit card reencoder or scanning device that has been installed on his
13 or her machine.

14 **SECTION 2.** 943.202 of the statutes is created to read:

15 **943.202 Unauthorized use or possession of a credit card scanner. (1)**

16 In this section:

17 (a) “Access” means access, read, scan, intercept, obtain, memorize, or
18 temporarily or permanently store.

19 (b) “Credit card” means a credit card, charge card, debit card, or other card that
20 allows an authorized user to obtain, purchase, or receive credit, money, goods,
21 services, or any other thing of value.

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1 (c) “Reencoder” means an electronic device that places encoded information
2 from a computer chip or magnetic strip or stripe of a credit card onto the computer
3 chip or magnetic strip or stripe of a credit card or any electronic medium that allows
4 a transaction to occur.

5 (d) “Scanning device” means a scanner, reader, or any other electronic device
6 that can access information encoded on a computer chip or magnetic strip or stripe
7 of a credit card.

8 **(2)** (a) Whoever possesses a reencoder or a scanning device, with the intent to
9 violate s. 943.201 (2) or 943.203 (2) or to access information encoded on a credit card
10 without the permission of an authorized user of the credit card, is guilty of a Class
11 I felony.

12 (b) Whoever does any of the following is guilty of a Class H felony:

13 1. Possesses a reencoder or a scanning device with the intent to transfer it to
14 another person if the person knows or should know the transferee will use the
15 reencoder or scanning device to violate s. 943.201 (2) or 943.203 (2) or to access
16 information encoded on a credit card without the permission of an authorized user
17 of the credit card.

18 2. Uses or attempts to use a reencoder or a scanning device to violate s. 943.201
19 (2) or 943.203 (2) or to access information encoded on a credit card without the
20 permission of an authorized user of the credit card.

21 (c) Whoever uses a reencoder or scanning device to violate s. 943.201 (2) or
22 943.203 (2) or to access information encoded on a credit card without the permission
23 of an authorized user of the credit card is guilty of a Class G felony if the person

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1 obtains, purchases, or receives credit, money, goods, services, or any other thing of
2 value from the use.

3 (END)