

1 HB319
2 173378-1
3 By Representatives Faulkner, Drake, Treadaway, Hill (M),
4 Weaver, Rowe, England, Farley, Butler, Blackshear, Nordgren,
5 Lawrence and Pettus
6 RFD: Judiciary
7 First Read: 24-FEB-16

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8 SYNOPSIS: Under existing law, a person commits the
9 crime of encoded data fraud by (1) possessing a
10 scanning device and using or attempting to use the
11 device to read, obtain, memorize, or store
12 information encoded on an identification document
13 by means of a magnetic strip; or (2) possessing or
14 using a reencoder to place encoded information on
15 an identification document by means of a magnetic
16 strip.

17 This bill would expand the crime of encoded
18 data fraud to include the possession of a purported
19 credit or debit card that was not legitimately
20 issued by a financial institution or other entity
21 for fraudulent purposes.

22 Amendment 621 of the Constitution of Alabama
23 of 1901, now appearing as Section 111.05 of the
24 Official Recompilation of the Constitution of
25 Alabama of 1901, as amended, prohibits a general
26 law whose purpose or effect would be to require a
27 new or increased expenditure of local funds from

1 becoming effective with regard to a local
2 governmental entity without enactment by a 2/3 vote
3 unless: it comes within one of a number of
4 specified exceptions; it is approved by the
5 affected entity; or the Legislature appropriates
6 funds, or provides a local source of revenue, to
7 the entity for the purpose.

8 The purpose or effect of this bill would be
9 to require a new or increased expenditure of local
10 funds within the meaning of the amendment. However,
11 the bill does not require approval of a local
12 governmental entity or enactment by a 2/3 vote to
13 become effective because it comes within one of the
14 specified exceptions contained in the amendment.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

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20 To amend Section 13A-8-113, Code of Alabama 1975,
21 relating to the crime of encoded data fraud, to expand the
22 crime to include the possession of a purported credit or debit
23 card that was not legitimately issued by a financial
24 institution or other entity for fraudulent purposes; and in
25 connection therewith would have as its purpose or effect the
26 requirement of a new or increased expenditure of local funds
27 within the meaning of Amendment 621 of the Constitution of

1 Alabama of 1901, now appearing as Section 111.05 of the
2 Official Recompilation of the Constitution of Alabama of 1901,
3 as amended.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 13A-8-113, Code of Alabama 1975,
6 is amended to read as follows:

7 "§13A-8-113.

8 "(a) A person commits the crime of encoded data
9 fraud by:

10 "(1) Knowingly and with the intent to commit an
11 unlawful act or to defraud, possessing a scanning device; or
12 knowingly and with intent to commit an unlawful act or
13 defraud, using or attempting to use a scanning device to
14 access, read, obtain, memorize, or store, temporarily or
15 permanently, information encoded on an identification document
16 by means of magnetic strip, integrated circuit, or radio
17 frequency identification tag without the permission of the
18 authorized user or issuer of the identification document.

19 "(2) Knowingly and with the intent to commit an
20 unlawful act or to defraud, possessing a reencoder; or
21 knowingly and with intent to commit an unlawful act or
22 defraud, using or attempting to use a reencoder to place
23 encoded information on an identification document by means of
24 magnetic strip, integrated circuit, or radio frequency
25 identification tag without the permission of the authorized
26 user or issuer of the identification document from which the
27 information is being reencoded.

1 "(3) Knowingly and with intent to commit an unlawful
2 act or to defraud, possess any purported credit or debit card
3 that was not legitimately issued by a financial institution,
4 company, governmental agency, or other card issuer. If any
5 credit or debit card contains conflicting identifying
6 information, this conflict shall create a rebuttable
7 presumption of intent to commit an unlawful act or to defraud
8 and that the credit or debit card was not legitimately issued.

9 "(b) Any person violating this section, upon
10 conviction, shall be guilty of a Class C felony. For the
11 purposes of charges under subdivision (3) of subsection (a),
12 the possession of each credit or debit card shall be charged
13 as a separate count.

14 "(c) Any scanning device, ~~or~~ reencoder, or credit or
15 debit card owned by the defendant and possessed or used in
16 violation of this section may be seized and be destroyed as
17 contraband by the investigating law enforcement agency by
18 which the scanning device, ~~or~~ reencoder, or credit or debit
19 card was seized."

20 Section 2. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.