

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 811

Introduced by Lindstrom, 18.

Read first time January 04, 2018

Committee:

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
- 2 28-632 and 28-634, Reissue Revised Statutes of Nebraska; to redefine
- 3 terms; to change provisions relating to prohibited uses of scanning
- 4 devices and encoding machines; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-632, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-632 For purposes of this section and sections 28-633 and 28-634:

4 (1) Encoding machine means an electronic device that is used to
5 encode information onto a payment card;

6 (2) ~~(1)~~ Merchant means:

7 (a) An ~~an~~ owner or operator of any retail mercantile establishment
8 or any agent, employee, lessee, consignee, officer, director, franchisee,
9 or independent contractor of such owner or operator;

10 (b) An establishing financial institution as defined in section
11 8-157.01; or

12 (c) A ~~Merchant~~ also includes a person who receives from an
13 authorized user of a payment card, or someone the person believes to be
14 an authorized user, a payment card or information from a payment card, or
15 what the person believes to be a payment card or information from a
16 payment card, as the instrument for obtaining, purchasing, or receiving
17 goods, services, money, or anything else of value from the person;

18 (3) ~~(2)~~ Payment card means a credit card, charge card, ~~or~~ debit
19 card, or any other card that is issued to an authorized card user and
20 that allows the user to obtain, purchase, or receive goods, services,
21 money, or anything else of value from a merchant;

22 (4) ~~(3)~~ Person means an individual, firm, partnership, association,
23 corporation, limited liability company, or other business entity; and

24 ~~(4) Reencoder means an electronic device that places encoded~~
25 ~~information from the magnetic strip or stripe of a payment card onto the~~
26 ~~magnetic strip or stripe of a different payment card; and~~

27 (5) Scanning device means a scanner, a reader, a wireless access
28 device, a radio-frequency identification scanner, near-field
29 communication technology, or any other electronic device that is used to
30 access, read, scan, obtain, memorize, or store, temporarily or
31 permanently, information encoded on the magnetic strip or stripe of a

1 payment card.

2 Sec. 2. Section 28-634, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 28-634 (1) It is unlawful for a person to ~~use:~~

5 (a) Use, directly or indirectly, a A scanning device to access,
6 read, scan, obtain, memorize, or store, temporarily or permanently,
7 information encoded on the ~~magnetic strip or stripe~~ of a payment card
8 without the permission of the authorized user of the payment card ~~and~~
9 ~~with the intent to defraud the authorized user,~~ the issuer of the
10 authorized user's payment card, or a merchant; ~~or~~

11 (b) Possess a scanning device with the intent to obtain information
12 encoded on a payment card without the permission of the authorized user,
13 the issuer of the authorized user's payment card, or a merchant or
14 possess a scanning device with knowledge that some other person intends
15 to use the scanning device to obtain information encoded on a payment
16 card without the permission of the authorized user, the issuer of the
17 authorized user's payment card, or a merchant;

18 (c) Use, directly or indirectly, an encoding machine (b) ~~A reencoder~~
19 to place information encoded on the ~~magnetic strip or stripe~~ of a payment
20 card onto the ~~magnetic strip or stripe~~ of a different card without the
21 permission of the authorized user of the card from which the information
22 was obtained is being reencoded and with the intent to defraud the
23 authorized user, the issuer of the authorized user's payment card, or a
24 merchant; or -

25 (d) Possess an encoding machine with the intent to place information
26 encoded on a payment card onto a different payment card without the
27 permission of the user, the issuer of the authorized user's payment card,
28 or a merchant.

29 (2) A violation of this section is a Class IV felony for the first
30 offense and a Class IIIA felony for a second or subsequent offense.

31 Sec. 3. Original sections 28-632 and 28-634, Reissue Revised

1 Statutes of Nebraska, are repealed.