

SENATE BILL 1717

By Briggs

AN ACT to amend Tennessee Code Annotated, Section 39-14-113, relative to the Organized Retail Crime Prevention Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-14-113(c)(1), is amended by deleting the language "Works with one (1) or more persons" and substituting instead the language "Acts in concert with one (1) or more people, but not in an organizational, supervisory, financial, or managerial capacity,".

SECTION 2. Tennessee Code Annotated, Section 39-14-113(d), is amended by deleting the subsection and substituting instead the following language:

(d)

(1) A violation of subsection (c) is punished as theft pursuant to § 39-14-105.

(2) A violation of subsection (c) is punished one classification higher than provided in § 39-14-105 if the defendant exercised organizational, supervisory, financial, or management authority over the activity of one (1) or more other persons in furtherance of a violation of this section.

SECTION 2. Tennessee Code Annotated, Section 39-14-113, is amended by deleting subsection (f) and substituting instead the following language:

(f)

(1) Any sale or purchase of stored value cards by persons or merchants, other than the issuer or the issuer's authorized agent, including transactions with

persons or merchants located in this state that occur online or on a third-party database, shall be subject to the following recording and reporting procedures:

(A) A merchant shall make a record at the time of each sale or purchase of a stored value card. A merchant shall maintain a copy of the record for at least three (3) years. The record shall require the following information:

(i) The time, date, and place of the transaction;

(ii) A complete and accurate description of the stored value card sold or purchased, including, if available, the name of the original issuer, the value of the stored value card when sold or purchased, the amount the stored value card was sold for, and the stored value card serial number and pin number;

(iii) A description of the person who purchased the stored value card from, or sold the stored value card to, the merchant, including the person's full name, current residential address, place of employment, phone number, height, weight, date of birth, race, gender, hair color, eye color, thumbprint, and any other identifying marks;

(iv)

(a) A copy of a valid government issued identification card, such as a driver license, state identification card, or military identification card, of the person who purchased the stored value card, or sold the stored value card to, the merchant if the transaction is made in person; or

(b) The identification number of a valid government issued identification card, such as a driver license, state identification card, or military identification card, of the

person who purchased the stored value card, or sold the stored value card, to the merchant if the transaction is made in person;

(v) A signed statement by the seller of the stored value card, if applicable, verifying that the seller is the rightful owner of the stored value card or is authorized to sell, consign, or trade the stored value card;

(B) All records shall be delivered to the appropriate law enforcement agency within twenty-four (24) hours from the date of the transaction.

(2)

(A) A merchant commits a Class A misdemeanor who knowingly fails to follow the reporting and recording requirements pursuant to this subsection (f). If the violation is committed by the owner, stockholder, or managing partner of a business selling a stored value card, then the business license may be suspended or revoked at the discretion of the city or county clerk.

(B) Any person or merchant who knowingly provides false information in response to the reporting requirements of this section commits a Class A misdemeanor.

(3) Local law enforcement shall notify merchants known to sell stored value cards of the recording and reporting requirements provided by this subsection (f). Any fines derived in violation of this subsection (f) shall be earmarked for law enforcement purposes if the law enforcement entity shows

proof of notification of reporting requirements signed by the person or agent of the entity in violation.

(4)

(A) Local law enforcement shall, on an annual basis, provide a record of all stored value card transactions that occurred within its jurisdiction to the chief executive officer of the county in which it serves.

(B) Each county shall, on an annual basis, provide a record of all stored value card transactions that occurred within the county to the comptroller of the treasury.

(C) The comptroller of the treasury has the authority to use records derived from counties regarding stored value card transactions for auditing purposes.

SECTION 3. Tennessee Code Annotated, Section 39-14-113, is amended by adding the following language as a new subsection:

(g) All identifying information gathered pursuant to subsection (f) shall remain confidential. If a local law enforcement agency utilizes a third party, including but not limited to a third-party database or software company, to keep records or to analyze stored value card transactions, that third party must agree to keep identifying information confidential and to only share identifying information with that law enforcement agency or the comptroller of the treasury.

SECTION 4. This act shall take effect July 1, 2018, the public welfare requiring it.