

1-1 By: Perez, et al. (Senate Sponsor - Zaffirini) H.B. No. 2625
1-2 (In the Senate - Received from the House May 2, 2019;
1-3 May 8, 2019, read first time and referred to Committee on Criminal
1-4 Justice; May 17, 2019, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 17, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9			X	
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to creating the criminal offense of fraudulent use or
1-18 possession of credit card or debit card information.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Subchapter C, Chapter 32, Penal Code, is amended
1-21 by adding Section 32.315 to read as follows:

1-22 Sec. 32.315. FRAUDULENT USE OR POSSESSION OF CREDIT CARD OR
1-23 DEBIT CARD INFORMATION. (a) In this section:

1-24 (1) "Counterfeit credit card or debit card" means a:

1-25 (A) credit card or debit card that:

1-26 (i) purports on its face to have been issued
1-27 by an issuer that did not issue the card;

1-28 (ii) has been altered to contain a digital
1-29 imprint other than that which was placed on the card by the issuer;

1-30 (iii) contains a digital imprint with
1-31 account information or account holder information differing from
1-32 that which is printed or embossed on the card; or

1-33 (iv) has been altered to change the account
1-34 information or account holder information on the face of the card
1-35 from that which was printed or embossed on the card by the issuer;
1-36 or

1-37 (B) card, other than one issued as a credit card
1-38 or debit card, that has been altered to contain the digital imprint
1-39 of a credit card or debit card.

1-40 (2) "Credit card" and "debit card" have the meanings
1-41 assigned by Section 32.31.

1-42 (3) "Digital imprint" means the digital data placed on
1-43 a credit card or debit card or on a counterfeit credit card or debit
1-44 card.

1-45 (b) A person commits an offense if the person, with the
1-46 intent to harm or defraud another, obtains, possesses, transfers,
1-47 or uses:

1-48 (1) a counterfeit credit card or debit card;

1-49 (2) the number and expiration date of a credit card or
1-50 debit card without the consent of the account holder; or

1-51 (3) the data stored on the digital imprint of a credit
1-52 card or debit card without the consent of the account holder.

1-53 (c) If an actor possessed five or more of an item described
1-54 by Subsection (b)(2) or (3), a rebuttable presumption exists that
1-55 the actor possessed each item without the consent of the account
1-56 holder.

1-57 (d) The presumption established under Subsection (c) does
1-58 not apply to a business or other commercial entity or a government
1-59 agency that is engaged in a business activity or governmental
1-60 function that does not violate a penal law of this state.

1-61 (e) An offense under this section is:

2-1 (1) a state jail felony if the number of items
2-2 obtained, possessed, transferred, or used is less than five;

2-3 (2) a felony of the third degree if the number of items
2-4 obtained, possessed, transferred, or used is five or more but less
2-5 than 10;

2-6 (3) a felony of the second degree if the number of
2-7 items obtained, possessed, transferred, or used is 10 or more but
2-8 less than 50; or

2-9 (4) a felony of the first degree if the number of items
2-10 obtained, possessed, transferred, or used is 50 or more.

2-11 (f) If a court orders a defendant convicted of an offense
2-12 under this section to make restitution to a victim of the offense,
2-13 the court may order the defendant to reimburse the victim for lost
2-14 income or other expenses, other than attorney's fees, incurred as a
2-15 result of the offense.

2-16 (g) If conduct that constitutes an offense under this
2-17 section also constitutes an offense under any other law, the actor
2-18 may be prosecuted under this section, the other law, or both.

2-19 SECTION 2. The change in law made by this Act applies only
2-20 to an offense committed on or after the effective date of this Act.
2-21 An offense committed before the effective date of this Act is
2-22 governed by the law in effect on the date the offense was committed,
2-23 and the former law is continued in effect for that purpose. For
2-24 purposes of this section, an offense was committed before the
2-25 effective date of this Act if any element of the offense occurred
2-26 before that date.

2-27 SECTION 3. This Act takes effect September 1, 2019.

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