

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 166

An Act to amend the Code of Virginia by adding a section numbered 18.2-196.1, relating to unlawful use of payment card scanning devices and re-encoders; penalty.

[H 2059]

Approved March 20, 2005

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-196.1 as follows:

§ 18.2-196.1. Unlawful use of payment card scanning devices and re-encoders; penalty.

A. Any person who with malicious intent uses a scanning device or a re-encoder on the payment card of another without the permission of the authorized payment card user is guilty of a Class 1 misdemeanor.

B. Any person who violates this section and sells or distributes such information to another is guilty of a Class 6 felony.

C. Any person who violates this section and uses such information in the commission of another crime is guilty of a Class 6 felony.

D. For the purposes of this section:

1. "Authorized payment card user" means any person with the authorization or permission to use any payment card to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.

2. "Merchant" means an owner or operator of any mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator who receives from an authorized payment card user or someone he believes to be an authorized payment card user, a payment card or information from a payment card, or what he believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing or receiving goods, services, money, or anything else of value from him.

3. "Payment card" means a credit card, charge card, debit card, hotel key card, stored-value card, white plastic, or any other card containing encoded information that allows an authorized payment card user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.

4. "Re-encoder" means an electronic device that transfers encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card.

5. "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, temporarily store, or permanently store encoded information on the magnetic strip or stripe of a payment card.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.