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HOUSE BILL NO. 2059

Offered January 12, 2005

Prefiled January 11, 2005

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-196.1, relating to unlawful use of credit card scanning devices and re-encoders; penalty.*

Patron—Byron

Referred to Committee for Courts of Justice

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 credit card scanning devices and re-encoders; penalty

A. *It is unlawful for a person to use (i) a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant; or (ii) a re-encoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card without the permission of the authorized user of the card from which the information is being re-encoded and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.*

B. *Any person who violates subsection A is guilty of a Class 6 felony and for a second or subsequent violation is guilty of a Class 5 felony.*

1. *"Authorized card user" means any person with the empowerment, permission or legal authority 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 card user or someone he believes to be an authorized 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, or any other card that is issued to an authorized card user that allows the 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 places 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 information encoded 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.

INTRODUCED

HB2059