

HB0839



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0839

by Rep. Katie Stuart

SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-6

from Ch. 38, par. 16-6

Amends the Criminal Code of 2012. Provides that a person also commits use of a scanning device or reencoder to defraud when the person knowingly possesses, sells, or delivers a scanning device or reencoder, other than for the purpose of processing information to facilitate a lawful financial transaction. Increases the penalties for use of a scanning device or reencoder to defraud from a Class 4 felony for a first offense to a Class 3 felony and for a second or subsequent offense from a Class 3 felony to a Class 2 felony. Provides that the knowing sale or delivery of the device or reencoder is a Class 2 felony for a first offense and a Class 1 felony for a second or subsequent offense.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 16-6 as follows:

6 (720 ILCS 5/16-6) (from Ch. 38, par. 16-6)

7 Sec. 16-6. Theft-related devices.

8 (a)(1) A person commits unlawful possession of a key or
9 device for a coin-operated machine when he or she possesses a
10 key, drawing, print, mold of a key, device, or substance
11 designed to open, break into, tamper with, or damage a
12 coin-operated machine, with intent to commit a theft from the
13 machine.

14 (2) A person commits unlawful use of a key or device for a
15 coin-operated machine when he or she with the intent to commit
16 a theft from a coin-operated machine uses a key, drawing,
17 print, mold of a key, device, or substance and causes damage or
18 loss to the coin-operated machine of more than \$300.

19 (b)(1) A person commits unlawful use of a theft detection
20 shielding device when he or she knowingly manufactures, sells,
21 offers for sale or distributes any theft detection shielding
22 device.

23 (2) A person commits unlawful possession of a theft

1 detection shielding device when he or she knowingly possesses a
2 theft detection shielding device with the intent to commit
3 theft or retail theft.

4 (3) A person commits unlawful possession of a theft
5 detection device remover when he or she knowingly possesses a
6 theft detection device remover with the intent to use such tool
7 to remove any theft detection device from any merchandise
8 without the permission of the merchant or person owning or
9 holding the merchandise.

10 (c) A person commits use of a scanning device or reencoder
11 to defraud when the person knowingly uses:

12 (1) a scanning device to access, read, obtain,
13 memorize, or store, temporarily or permanently,
14 information encoded on the magnetic strip or stripe of a
15 payment card without the permission of the authorized user
16 of the payment card and with the intent to defraud the
17 authorized user, the issuer of the authorized user's
18 payment card, or a merchant; or

19 (2) a reencoder to place information encoded on the
20 magnetic strip or stripe of a payment card onto the
21 magnetic strip or stripe of a different card without the
22 permission of the authorized user of the card from which
23 the information is being reencoded and with the intent to
24 defraud the authorized user, the issuer of the authorized
25 user's payment card, or a merchant.

26 (c-5) A person also commits use of a scanning device or

1 reencoder to defraud when the person knowingly:

2 (1) possesses or uses a scanning device or reencoder,
3 other than for the purpose of processing information to
4 facilitate a lawful financial transaction; or

5 (2) sells or delivers a scanning device or reencoder,
6 other than for the purpose of processing information to
7 facilitate a lawful financial transaction.

8 (d) Sentence. A violation of subdivision (a) (1), (b) (1),
9 (b) (2), or (b) (3) is a Class A misdemeanor. A second or
10 subsequent violation of subdivision (b) (1), (b) (2), or (b) (3)
11 is a Class 4 felony. A violation of subdivision (a) (2), ~~(e) (1),~~
12 ~~or (e) (2)~~ is a Class 4 felony. A violation of subdivision
13 (c) (1) or (c) (2) or subdivision (c-5) (1) is a Class 3 felony
14 for a first offense and a Class 2 felony for a second or
15 subsequent offense. A violation of subdivision (c-5) (2) is a
16 Class 2 felony for a first offense and a Class 1 felony for a
17 second or subsequent offense. ~~A second or subsequent violation~~
18 ~~of subdivision (c) (1) or (c) (2) is a Class 3 felony.~~

19 (e) The owner of a coin-operated machine may maintain a
20 civil cause of action against a person engaged in the
21 activities covered in subdivisions (a) (1) and (a) (2) and may
22 recover treble actual damages, reasonable attorney's fees, and
23 costs.

24 (f) As used in this Section, "substance" means a corrosive
25 or acidic liquid or solid but does not include items purchased
26 through a coin-operated machine at the location or acquired as

1 condiments at the location of the coin-operated machine.

2 (g) For the purposes of this Section, "theft detection
3 shielding device" means any laminated or coated bag or device
4 peculiar to and marketed for shielding and intended to shield
5 merchandise from detection by an electronic or magnetic theft
6 alarm sensor.

7 (Source: P.A. 97-597, eff. 1-1-12.)