

SECOND REGULAR SESSION
[PERFECTED]
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1762
91ST GENERAL ASSEMBLY

Taken up for Perfection March 19, 2002.

House Substitute for House Committee Substitute for House Bill No. 1762 ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

4322L.10P

AN ACT

To repeal section 407.432, RSMo, and to enact in lieu thereof three new sections relating to protection of privacy for credit cardholders, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 407.432, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 407.432, 407.433, and 541.155, to read as follows:

407.432. As used in sections 407.430 to 407.436, the following terms shall mean:

- (1) "Acquirer", a business organization, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by credit card for merchandise;
- (2) "Cardholder", the person's name on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer, or any agent **authorized signatory** or employee of such person;
- (3) "Counterfeit credit card", any credit card which is fictitious, altered, or forged, any false representation, depiction, facsimile or component of a credit card, or any credit card which is stolen, obtained as part of a scheme to defraud, or otherwise unlawfully obtained, and which may or may not be embossed with account information or a company logo;
- (4) "Credit card" or "**debit card**", any instrument or device, whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, or debit card or by any

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 other name, issued with or without fee by an issuer for the use of the cardholder in obtaining
15 money or merchandise on credit, or for use in an automated banking device to obtain any of the
16 services offered through the device. The presentation of a credit card account number is deemed
17 to be the presentation of a credit card;

18 (5) "Expired credit card", a credit card for which the expiration date shown on it has
19 passed;

20 (6) "Issuer", the business organization or financial institution or its duly authorized agent,
21 which issues a credit card;

22 (7) "Merchandise", any objects, wares, goods, commodities, intangibles, real estate,
23 services, or anything else of value;

24 (8) **"Merchant", an owner or operator of any retail mercantile establishment, or**
25 **any agent, employee, lessee, consignee, officer, director, franchisee, or independent**
26 **contractor of such owner or operator. A merchant includes a person who receives from**
27 **an authorized user of a payment card, or an individual the person believes to be an**
28 **authorized user, a payment card or information from a payment card as the instrument**
29 **for obtaining, purchasing, or receiving goods, services, money, or anything of value from**
30 **the person;**

31 (9) "Person", any natural person or his legal representative, partnership, firm, for-profit
32 or not-for-profit corporation, whether domestic or foreign, company, foundation, trust, business
33 entity or association, and any agent, employee, salesman, partner, officer, director, member,
34 stockholder, associate, trustee or cestui que trust thereof;

35 [(9)] (10) **"Reencoder", an electronic device that places encoded information from**
36 **the magnetic strip or stripe of a credit or debit card onto the magnetic strip or stripe of a**
37 **different credit or debit card;**

38 (11) "Revoked credit card", a credit card for which permission to use it has been
39 suspended or terminated by the issuer;

40 (12) **"Scanning device", a scanner, reader, or any other electronic device that is**
41 **used to access, read, scan, obtain, memorize, or store, temporarily or permanently,**
42 **information encoded on the magnetic strip or stripe of a credit or debit card.**

407.433. 1. No person, other than the cardholder, shall:

2 (1) **Disclose more than the last five digits of a credit card or debit card account**
3 **number on any sales receipt for merchandise sold in this state;**

4 (2) **Use a scanning device to access, read, obtain, memorize, or store, temporarily**
5 **or permanently, information encoded on the magnetic strip or stripe of a credit or debit**
6 **card without the permission of the cardholder and with the intent to defraud any person,**
7 **the issuer, or a merchant; or**

8 **(3) Use a reencoder to place information encoded on the magnetic strip or stripe**
9 **of a credit or debit card onto the magnetic strip or stripe of a different card without the**
10 **permission of the cardholder from which the information is being reencoded and with the**
11 **intent to defraud any person, the issuer, or a merchant.**

12 **2. Any person who knowingly violates this section is guilty of an infraction and any**
13 **second or subsequent violation of this section is a class A misdemeanor.**

14 **3. It shall not be a violation of subdivision (1) of subsection 1 of this section if:**

15 **(1) The sole means of recording the credit card number or debit card number is by**
16 **handwriting or, prior to January 1, 2005, by an imprint of the credit card or debit card;**
17 **and**

18 **(2) For handwritten or imprinted copies of credit card or debit card receipts, only**
19 **the merchant's copy of the receipt lists more than the last five digits of the account number.**

20 **4. This section shall become effective on January 1, 2003, and applies to any cash**
21 **register or other machine or device that prints or imprints receipts of credit card or debit**
22 **card transactions and which is placed into service on or after January 1, 2003. Any cash**
23 **register or other machine or device that prints or imprints receipts on credit card or debit**
24 **card transactions and which is placed in service prior to January 1, 2003, shall be subject**
25 **to the provisions of this section on or after January 1, 2005.**

541.155. Any person charged with fraudulent use of a credit device, or any stealing
2 **offense in which another person's credit card number, check, or checking account number**
3 **was fraudulently used for the purpose of obtaining property or services of another, shall**
4 **be prosecuted:**

5 **(1) In the county in which the offense is committed; or**

6 **(2) If the offense is committed partly in one county and partly in another, or if the**
7 **elements of the offense occur in more than one county, then in any of the counties where**
8 **any element of the offense occurred; or**

9 **(3) In the county in which the defendant resides; or**

10 **(4) In the county in which the victim resides; or**

11 **(5) In the county in which the property obtained or attempted to be obtained was**
12 **located.**