



House of Representatives

File No. 596

General Assembly

February Session, 2006

(Reprint of File No. 221)

Substitute House Bill No. 5694
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 20, 2006

**AN ACT CONCERNING THE UNLAWFUL USE OR POSSESSION OF
SCANNING DEVICES AND REENCODERS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) (a) As used in this
2 section:

3 (1) "Scanning device" means a scanner, reader or any other
4 electronic device that is used to access, read, scan, obtain, memorize or
5 temporarily or permanently store information encoded on a computer
6 chip or a magnetic strip or stripe of a payment card.

7 (2) "Reencoder" means an electronic device that places encoded
8 information from a computer chip or a magnetic strip or stripe of a
9 payment card onto a computer chip or a magnetic strip or stripe of a
10 different payment card or any electronic medium that allows an
11 authorized transaction to occur.

12 (3) "Payment card" means a credit card, charge card, debit card or
13 any other card that is issued to an authorized card user and that allows

14 the user to obtain, purchase or receive goods, services, money or
15 anything else of value from a merchant.

16 (4) "Merchant" means a person who receives, from an authorized
17 user of a payment card or from someone the person reasonably
18 believes to be such an authorized user, a payment card or information
19 from a payment card or what the person reasonably believes to be a
20 payment card or information from a payment card, as an instrument
21 for obtaining, purchasing or receiving goods, services, money or
22 anything else of value from the person.

23 (b) No person shall use a scanning device to access, read, obtain,
24 memorize or temporarily or permanently store information encoded
25 on a computer chip or a magnetic strip or stripe of a payment card
26 without the permission of the authorized user of the payment card and
27 with the intent to defraud the authorized user, the issuer of the
28 authorized user's payment card or a merchant.

29 (c) No person shall use a reencoder to place information encoded on
30 a computer chip or a magnetic strip or stripe of a payment card onto a
31 computer chip or a magnetic strip or stripe of a different card without
32 the permission of the authorized user of the card from which the
33 information is being reencoded and with the intent to defraud the
34 authorized user, the issuer of the authorized user's payment card or a
35 merchant.

36 (d) The Attorney General may institute a civil proceeding in
37 superior court against any person who violates subsection (b) or (c) of
38 this section.

39 (e) Any person who violates the provisions of subsection (b) or (c) of
40 this section shall be fined not more than ten thousand dollars and
41 imprisoned not less than one year or more than ten years, or both.

42 (f) No person shall possess a scanning device or reencoder under
43 circumstances manifesting an intent to use the same in the commission
44 of a violation of subsection (b) or (c) of this section.

45 (g) Any person who violates subsection (f) of this section shall be
46 guilty of a class A misdemeanor.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	New section

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Attorney General	GF - Revenue Gain	Potential	Potential
Various Criminal Justice Agencies	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill prohibits any person from obtaining information encoded on a computer chip, magnetic strip or stripe of a payment card without the permission of the authorized user and with the intent to defraud the authorized user, the issuer of the authorized user’s payment card or a merchant. The bill permits the OAG to institute a civil proceeding against any person who violates these provisions and makes such activity a crime punishable by a fine of up to \$10,000 and/or imprisonment for up to 10 years. The OAG could accommodate enforcement under this provision within budgeted resources. The bill also makes it a crime, punishable by a fine of up to \$2,000 and/or up to one years’ imprisonment, for any person to possess a scanning device or reencoder under certain circumstances.

To the extent that offenders are subject to incarceration or probation supervision in the community as a result of the bill, a potential cost to criminal justice agencies exists. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

House Amendment “A” reduced the potential state revenue gain

from civil penalties that may be imposed under the bill. It also expanded the scope of activities designated as criminal, which could increase the cost of incarceration and/or probation supervision in the community.

The Out Years

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$	FY 11 \$
Attorney General	GF - Revenue Gain	Potential	Potential	Potential
Various Criminal Justice Agencies	GF - Cost	Potential	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

OLR Bill Analysis**sHB 5694 (as amended by House "A")******AN ACT CONCERNING IDENTITY THEFT AND THEFT OF PERSONAL INFORMATION.*****SUMMARY:**

This bill prohibits using (1) a scanner to read the information on a computer chip or a payment card without permission and with the intent to defraud and (2) a reencoder to take information from a computer chip or a payment card and encode it on a computer chip or a different card without permission and with the intent to defraud.

The bill authorizes the attorney general to sue to enforce its provisions and sets criminal penalties for them.

*House Amendment "A" eliminates provisions in the original bill (File 221) requiring businesses to take reasonable steps to ensure the destruction of records containing personal information; applies its prohibitions to information in computer chips, in addition to information in magnetic strips; and adds a penalty for possessing a scanner or reencoder showing an intent to violate the bill.

EFFECTIVE DATE: October 1, 2006

SCANNERS AND REENCODERS

The bill prohibits using a scanning device to access, read, obtain, memorize, or temporarily or permanently store encoded information on a computer chip or a payment card's magnetic strip without the authorized user's permission and with the intent to defraud the authorized user, issuer, or a merchant. It also prohibits using a reencoder to take information encoded on a computer chip or a magnetic strip and put it onto a computer chip or the strip of a

different card without its holder’s permission and with the intent to defraud its holder, the card issuer, or a merchant.

A “scanning device” is a scanner, reader, or any other electronic device used to access, read, scan, obtain, memorize, or store information on a computer chip or a magnetic strip of a payment card. A “payment card” is a credit, charge, debit, or any other card issued to an authorized user allowing him to obtain goods, services, money, or anything else of value from a merchant. A “merchant” is a person who receives a payment card from its authorized user or someone he believes to be its authorized user in return for goods or services from the merchant.

Enforcement

The bill authorizes the attorney general to sue to enforce its scanner and reencoder provisions. A violator is subject to one to 10 years imprisonment, a fine of up to \$10,000, or both.

It prohibits possessing a scanning device or reencoder under circumstances showing intent to violate the bill’s prohibitions. An offender commits a class A misdemeanor, punishable with up to one year imprisonment, a fine of up to \$2,000, or both.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/14/2006)

Judiciary Committee

Joint Favorable

Yea 33 Nay 0 (04/10/2006)