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BAN USE OF SCANNER OR DECODER IN FRAUDULENT ACTS

House Bill 6192

Sponsor: Rep. Michael Bishop

House Bill 6193

Sponsor: Rep. Andrew Raczkowski

Committee: Criminal Justice

Complete to 11-4-02

A SUMMARY OF HOUSE BILLS 6192 AND 6193 AS INTRODUCED 6-13-02

House Bill 6192 would add a new section to the Michigan Penal Code (MCL 750.568) to prohibit the use of a scanning device or a reencoder with the intent of defrauding the authorized user of a payment card (i.e., a credit card, charge card, or debit card). House Bill 6193 would amend the Code of Criminal Procedure (MCL 777.16r) to establish a violation of the prohibition as a felony offense. Under House Bill 6193, a scanning offense would be a Class G felony property offense with a two-year statutory maximum term of imprisonment; and a subsequent scanning offense would be a Class F property offense with a four-year statutory maximum term of imprisonment. House Bill 6193 is tie-barred to House Bill 6192.

Definitions. House Bill 6192 would define “reencoder” to mean 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. “Scanning device” would mean a scanner, reader, or other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.

“Merchant” would be defined to mean a retail mercantile establishment owner or operator or an agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of the owner or operator, who received one or more of the following from an authorized user of a payment card, or someone he or she believed was an authorized user of a payment card, as the instrument for obtaining, purchasing or receiving goods, services, money, or anything of value:

- A payment card, or what he or she believed to be a payment card.
- Information from a payment card, or what he or she believed to be information from a payment card.

Prohibited Acts. House Bill 6192 would specify that a person could not use 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 card and with the intent to defraud the authorized user, the issuer of the authorized user’s payment card, or a merchant.

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Also, a person could not use a reencoder 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 was being reencoded and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.

Remedy. A violation of the above provisions would be a felony, punishable by imprisonment for no more than two years, a fine of up to \$500, or both. A second or subsequent violation would be a felony, punishable by imprisonment for no more than four years, a fine of up to \$1,000, or both.

Analyst: R. Young

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.