

March 11, 2013

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2126

That the House recede from its amendments as printed on pages 751 and 752 of the Senate Journal and pages 882-884 of the House Journal and that Engrossed Senate Bill No. 2126 be amended as follows:

Page 1, line 1, replace the first "section" with "sections"

Page 1, line 1, after "12.1-23-16" insert "and 12.1-23-17"

Page 1, line 3, after "devices" insert "and skimming devices used for a fraudulent purpose"

Page 1, remove line 11

Page 1, line 12, remove "internet link, or"

Page 1, line 12, remove "other"

Page 1, line 12, remove the second underscored comma

Page 2, line 17, after "is" insert "guilty of a class A felony and also is"

Page 3, after line 3, insert:

"**SECTION 2.** Section 12.1-23-17 of the North Dakota Century Code is created and enacted as follows:

**12.1-23-17. Unlawful skimming of credit, debit, or other electronic payment cards - Penalty.**

1. For purposes of this section:
  - a. "Authorized card user" means any person with the empowerment, permission, or competence to use an electronic payment card.
  - b. "Electronic 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 which allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.
  - c. "Merchant" means an owner or operator of a retail mercantile establishment or an agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of a retail mercantile establishment who receives from an authorized user or someone believed to be an authorized user, an electronic payment card or information from an electronic payment card, or what is believed to be an electronic payment card or information from an electronic payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything else of value from the retail mercantile establishment.
  - d. "Re-encoder" means an electronic device that places encoded information from the magnetic strip or stripe of an electronic payment

card onto the magnetic strip or stripe of a different electronic payment card.

e. "Scanning device" means a scanner, reader, or any 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 an electronic payment card.

2. A person is guilty of unlawful skimming if the person uses:

a. A scanning device to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of an electronic payment card without the permission of the authorized user of the electronic payment card, with the intent to defraud the authorized user of the electronic payment card, the issuer of the electronic payment card, or a merchant; or

b. A re-encoder to place information encoded on the magnetic strip or stripe of an electronic payment card onto the magnetic strip or stripe of a different electronic payment card without the permission of the authorized user of the card from which the information is being re-encoded, with the intent to defraud the authorized user of the electronic payment card, the issuer of the electronic payment card, or a merchant.

3. Any person convicted of a violation under subsection 2 is guilty of a class B felony. Any person convicted of a second or subsequent violation of subsection 2 is guilty of a class A felony and also is subject to a civil penalty of not more than one hundred thousand dollars."

Page 3, line 8, replace "revocation" with "conviction"

Page 3, line 8, after the underscored period insert "Any person convicted of violating section 12.1-23-16 who is not a holder of a permit at the time of conviction is not eligible to receive a permit for a period of ten years from the date of conviction."

Renumber accordingly