Model Legislation

Civil Justice

Summary:
This Act criminalizes the use of a scanning device or re-encoder to capture encoded information from a magnetic strip from a credit, debit, or other payment card and then places it on a different credit, debit, or other payment card with the intent to defraud.

Model Bill:

Section A. {Short Title}
This act shall be cited as the Anti-Skimming Act.

Section B. {Definitions}
As used in this section, the term:
(a) "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 a payment card.
(b) "Re-encoder" means 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.
(c) "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 and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.
(d) "Merchant" is defined as an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator. A "merchant" means a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing or receiving goods, services, money, or anything else of value from the person.
(e) "Authorized card user" means any person with the empowerment, permission or competence to act in the usage of any "payment card" to include, but not limited to, a credit card, debit card, hotel key card, stored value card, or any other card that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.

Section C. {Penalties}
(a) It is a felony of the {insert appropriate low class felony} for a person to use:
(1) 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 payment card and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.
(2) A re-encoder 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 is being re-encoded and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.

(b) Any person who violates subparagraph (a)1 or subparagraph (a)2 a second or subsequent time commits a {insert appropriate felony of the next higher degree}.

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