

By: Senator(s) Fillingane, McMahan

To: Judiciary, Division B

SENATE BILL NO. 2311

1 AN ACT TO CREATE THE CRIME OF MAIL THEFT; TO CREATE THE CRIME
2 OF THEFT OR UNAUTHORIZED REPRODUCTION OF A MAIL RECEPTACLE KEY OR
3 LOCK; TO CREATE THE THEFT OR RECEIPT OF A STOLEN CHECK OR SIGHT
4 ORDER; TO CREATE THE CRIME OF TRAFFIC IN OR POSSESSION OF
5 COUNTERFEIT CREDIT CARDS; TO DEFINE TERMS; TO PROVIDE CRIMINAL
6 PENALTIES; TO AMEND SECTIONS 97-19-32 AND 97-45-31, MISSISSIPPI
7 CODE OF 1972, TO INCLUDE CHIP-ENABLED CARDS WITHIN THE DEFINITION
8 OF "REENCODER" AND "SCANNING DEVICE"; TO INCREASE THE CRIMINAL
9 PENALTIES FOR A SECOND OR SUBSEQUENT VIOLATION OF THESE SECTIONS;
10 TO PROVIDE THAT IN ADDITION TO THE CRIMINAL PENALTIES A PERSON
11 CONVICTED UNDER THESE SECTIONS SHALL MAKE FULL RESTITUTION TO
12 VICTIM OF THE OFFENSE; TO AMEND SECTION 97-21-23, MISSISSIPPI CODE
13 OF 1972, TO AMEND THE CRIME OF FORGERY TO INCLUDE HAVING IN A
14 PERSON'S CUSTODY OR POSSESSION A CHECK-PRINTING SOFTWARE OR
15 HARDWARE WITH THE INTENT TO PRODUCE A MONETARY INSTRUMENT; AND
16 FOR RELATED PURPOSES.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

18 **SECTION 1.** (1) As used in this section, the term:

19 (a) "Mail" means any letter, postal card, parcel,
20 envelope, package, bag or other material, or any other sealed
21 article addressed to another, along with its contents.

22 (b) "Mail depository" means a mail box, letter box or
23 mail receptacle of a postal service, post office box, rural box,
24 letter box, lock drawer, an office of a postal service, a vehicle
25 of a postal service, or any area intended or used by postal



26 customers or a postal service for the collection, deposit or
27 delivery of mail.

28 (c) "Postal service" means the United States Postal
29 Service or its contractors, or any commercial courier that
30 delivers mail.

31 (2) Any of the following acts shall constitute mail theft:

32 (a) Stealing, converting, taking, destroying, hiding,
33 or embezzling mail, removing mail from a mail depository, or
34 taking mail from a mail carrier with a postal service.

35 (b) Obtaining, or attempting to obtain, custody of mail
36 by fraud or deception.

37 (c) Damages, opens, tears down, takes or destroys any
38 mail depository.

39 (d) Selling, receiving, possessing, transferring,
40 buying or concealing mail obtained by acts described in paragraph
41 (a), (b) or (c) of this subsection, while knowing or having reason
42 to know the mail was obtained illegally.

43 (3) (a) Whoever violates the provisions of this section
44 shall be imprisoned for not more than five (5) years, or fined not
45 more than Five Thousand Dollars (\$5,000.00), or both.

46 (b) Upon a second or subsequent conviction or violation
47 of the provisions of this section, the offender shall be
48 imprisoned for not less than one (1) year nor more than ten (10)
49 years and may, in addition, be fined not more than Twenty Thousand
50 Dollars (\$20,000.00).



(4) In addition to the penalties provided in subsection (3) of this section, a person convicted under this section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense.

(5) An offense committed under this section may be prosecuted in any of the following counties:

(a) The county where the offense occurred.

(b) The county of residence or place of business of the direct or indirect victim.

SECTION 2. (1) As used in this section, the term:

(a) "Mail" means any letter, postal card, parcel, envelope, package, bag or any other sealed article addressed to another, along with its contents.

(b) "Mail depository" means a mail box, letter box or mail receptacle of a postal service, post office box, rural box, letter box, lock drawer, an office of a postal service, a vehicle of a postal service, or any area intended or used by postal customers or a postal service for the collection, deposit or delivery of mail.

(c) "Postal service" means the United States Postal Service or its contractors, or any commercial courier that delivers mail.

(2) Any of the following acts shall constitute theft or unauthorized reproduction of a mail depository key or lock:



76 (a) Stealing, purloining, embezzling, or obtaining by
77 false pretense any key or lock adopted by a postal service for any
78 box or other authorized receptacle for the deposit or delivery of
79 mail.

80 (b) Knowingly and unlawfully making, forging or
81 counterfeiting any such key, device or lock designed to provide
82 access to a mail depository or to any key providing access to any
83 mail depository, or possessing any such key, device or lock
84 adopted by a postal service that delivers mail with the intent to
85 unlawfully or improperly use, sell, or otherwise dispose of the
86 key or lock, or to cause the key or lock to be unlawfully or
87 improperly used, sold or otherwise disposed.

88 (3) (a) Whoever violates the provisions of this section
89 shall be imprisoned for not more than five (5) years, or fined not
90 more than Five Thousand Dollars (\$5,000.00), or both.

91 (b) Upon a second or subsequent conviction or violation
92 of the provisions of this section, the offender shall be
93 imprisoned for not less than one (1) year nor more than ten (10)
94 years and may, in addition, be fined not more than Twenty Thousand
95 Dollars (\$20,000.00).

96 (4) In addition to the penalties provided in subsection (3)
97 of this section, a person convicted under this section shall be
98 ordered to make full restitution to the victim and any other
99 person who has suffered a financial loss as a result of the
100 offense.



SECTION 3.

(1) As used in this section, "sight order" means a written or electronic instruction to pay money that is authorized by the person giving the instruction and that is payable on demand or at a definite time by the person being instructed to pay. The term includes a check, an electronic debit, or an automatic bank draft.

(2) Stealing an unsigned check, signed check, or sight order or, with knowledge that an unsigned check, signed check or sight order has been stolen, receiving the check or sight order with intent to use it, to sell it, or to transfer it to a person other than the person from whom the check or sight order was taken shall constitute the theft or receipt of a stolen check or sight order.

(3) (a) Whoever violates the provisions of this section shall be imprisoned for not more than five (5) years, or fined not more than Five Thousand Dollars (\$5,000.00), or both.

(b) Upon a second or subsequent conviction or violation of the provisions of this section, the offender shall be imprisoned for not less than one (1) year nor more than ten (10) years and may, in addition, be fined not more than Twenty Thousand Dollars (\$20,000.00).

(4) In addition to the penalties provided in subsection (3) of this section, a person convicted under this section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense.



(5) An offense committed under this section may be prosecuted in any of the following counties:

(a) The county where the offense occurred.

(b) The county of residence or place of business of the direct or indirect victim.

SECTION 4. (1) As used in this section, the term:

(a) "Counterfeit credit card or debit card" means a:

(i) Credit card or debit card that:

1. Purports on its face to have been issued by an issuer that did not issue the card;

2. Has been altered to contain a digital imprint other than that which was placed on the card by the issuer;

3. Contains a digital imprint with account information or account holder information differing from that which is printed or embossed on the card; or

4. Has been altered to change the account information or account holder information on the face of the card from that which was printed or embossed on the card by the issuer; or

(ii) Card, other than one (1) issued as a credit card or debit card, that has been altered to contain the digital imprint of a credit card or debit card.

(b) "Credit card" means that term as defined in Section 97-45-31.



151 (c) "Digital imprint" means the digital data is placed
152 on a credit card or debit card or on a counterfeit credit card or
153 debit card.

154 (2) A person commits the offense of traffic in or possession
155 of counterfeit credit cards if the person, with the intent to harm
156 or defraud another, obtains, possesses, transfers or uses:

157 (a) A counterfeit credit card or debit card or related
158 documents;

159 (b) The number and expiration date of a credit card or
160 debit card without the consent of the account holder; or

161 (c) The data stored on the digital imprint of a credit
162 card or debit card without the consent of the account holder.

163 (3) If an actor possessed five (5) or more of an item
164 described by subsection (2)(b) or (c) of this section, a
165 rebuttable presumption exists that the actor possessed each item
166 without the consent of the account holder. The presumption
167 established under this subsection does not apply to a business or
168 other commercial entity or a government agency that is engaged in
169 a business activity or governmental function that does not violate
170 a criminal law of this state.

171 (4) An offense under this section is:

172 (a) A misdemeanor if the number of items obtained,
173 possessed, transferred or used is less than five (5); and upon
174 conviction, shall be subject to a fine not to exceed One Thousand



Dollars (\$1,000.00), or to imprisonment for a term not to exceed one (1) year, or both.

(b) A felony if the number of items obtained, possessed, transferred or used is five (5) or more but less than ten (10); and upon conviction, the offender shall be imprisoned for not less than one (1) year nor more than five (5) years and may be fined not more than Five Thousand Dollars (\$5,000.00), or both.

(c) A felony if the number of items obtained, possessed, transferred or used is ten (10) or more but less than fifty (50); and upon conviction, the offender shall be imprisoned for not less than five (5) years nor more than fifteen (15) years and may be fined not more than Ten Thousand Dollars (\$10,000.00), or both.

(d) A felony if the number of items obtained, possessed, transferred or used is fifty (50) or more; and upon conviction, the offender shall be imprisoned for not less than ten (10) years nor more than twenty (20) years and may be fined not more than Twenty Thousand Dollars (\$20,000.00), or both.

(5) In addition to the penalties provided in subsection (4) of this section, a person convicted under this section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense.



(6) An offense committed under this section may be prosecuted in any of the following counties:

(a) The county where the offense occurred.

(b) The county of residence or place of business of the direct or indirect victim.

(7) If a court orders a defendant convicted of an offense under this section to make restitution to a victim of the offense, the court may order the defendant to reimburse the victim for lost income or other expenses, other than attorney's fees, incurred as a result of the offense.

(8) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

SECTION 5. Section 97-19-32, Mississippi Code of 1972, is amended as follows:

97-19-32. (1) For the purposes of this section, the following terms shall have the meanings ascribed to them unless the context clearly requires otherwise:

(a) "Cardholder" means any person:

(i) Named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer; or

(ii) In possession of a credit card with the consent of the person to whom the credit card was issued.

(b) "Credit card" means:



224 (i) Any instrument or device, whether known as a
225 credit card, charge card, credit plate, courtesy card,
226 identification card or any other name that is issued with or
227 without fee by an issuer for the use of the cardholder in
228 obtaining money, goods, services or anything else of value, either
229 on credit or in consideration of an undertaking or guaranty by the
230 issuer of the payment of a check drawn by the cardholder, on a
231 promise to pay in part or in full therefor at a future time,
232 whether or not all or any part of the indebtedness that is
233 represented by the promise to make deferred payment is secured or
234 unsecured.

235 (ii) A debit card, electronic benefit transfer
236 card or other access instrument or device, other than a check that
237 is signed by the holder or other authorized signatory on the
238 deposit account, that draws funds from a deposit account in order
239 to obtain money, goods, services or anything else of value.

240 (iii) A stored value card, smart card or other
241 instrument or device that enables a person to obtain goods,
242 services or anything else of value through the use of value stored
243 on the card instrument or device.

244 (iv) The number that is assigned the card,
245 instrument or device, even if the physical card, instrument or
246 device is not used or presented.



(c) "Issuer" means any business organization, state agency or financial institution, or its duly authorized agent, that issues a credit card.

(d) "Merchant" means a person who is authorized under a written contract with a participating party to furnish money, goods, services or anything else of value on presentation of a credit card by a cardholder.

(e) "Reencoder" means an electronic device that places encoded information from chip-enabled cards or the magnetic strip or stripe of a credit card onto chip-enabled cards or the magnetic strip or stripe of a different credit card.

(f) "Scanning device" means a scanner, reader, skimmer or other electronic device that is used to access, read, scan, obtain, memorize or store, temporarily or permanently, information that is encoded on chip-enabled cards or a magnetic strip or stripe of a credit card.

(2) (a) It is unlawful for a person to possess, directly or indirectly, a scanning device or reencoder without the permission of the cardholder of the credit card from which the information is being scanned or reencoded with the intent to defraud the cardholder, the issuer or a merchant.

(b) A person who violates this section commits a felony punishable, upon conviction thereof, by imprisonment not to exceed five (5) years, a fine not to exceed Ten Thousand Dollars (\$10,000.00), or both.



272 (c) Upon a second or subsequent conviction of a
273 violation of the provisions of this section, the offender shall be
274 imprisoned for not less than one (1) year nor more than ten (10)
275 years, and may be fined not more than Twenty Thousand Dollars
276 (\$20,000.00).

277 (3) In addition to the penalties provided in subsection (2)
278 of this section, a person convicted under this section shall be
279 ordered to make full restitution to the victim and any other
280 person who has suffered a financial loss as a result of the
281 offense.

282 **SECTION 6.** Section 97-45-31, Mississippi Code of 1972, is
283 amended as follows:

284 97-45-31. (1) For the purposes of this section, the
285 following terms shall have the meanings ascribed to them unless
286 the context clearly requires otherwise:

287 (a) "Cardholder" means any person:

288 (i) Named on the face of a credit card to whom or
289 for whose benefit the credit card is issued by an issuer; or

290 (ii) In possession of a credit card with the
291 consent of the person to whom the credit card was issued.

292 (b) "Credit card" means:

293 (i) Any instrument or device, whether known as a
294 credit card, charge card, credit plate, courtesy card,
295 identification card or any other name that is issued with or
296 without fee by an issuer for the use of the cardholder in



297 obtaining money, goods, services or anything else of value, either
298 on credit or in consideration of an undertaking or guaranty by the
299 issuer of the payment of a check drawn by the cardholder, on a
300 promise to pay in part or in full therefor at a future time,
301 whether or not all or any part of the indebtedness that is
302 represented by the promise to make deferred payment is secured or
303 unsecured.

304 (ii) A debit card, electronic benefit transfer
305 card or other access instrument or device, other than a check that
306 is signed by the holder or other authorized signatory on the
307 deposit account, that draws funds from a deposit account in order
308 to obtain money, goods, services or anything else of value.

309 (iii) A stored value card, smart card or other
310 instrument or device that enables a person to obtain goods,
311 services or anything else of value through the use of value stored
312 on the card instrument or device.

313 (iv) The number that is assigned the card,
314 instrument or device, even if the physical card, instrument or
315 device is not used or presented.

316 (c) "Issuer" means any business organization, state
317 agency or financial institution, or its duly authorized agent,
318 that issues a credit card.

319 (d) "Merchant" means a person who is authorized under a
320 written contract with a participating party to furnish money,



goods, services or anything else of value on presentation of a credit card by a cardholder.

(e) "Reencoder" means an electronic device that places encoded information from chip-enabled cards or the magnetic strip or stripe of a credit card onto chip-enabled cards or the magnetic strip or stripe of a different credit card.

(f) "Scanning device" means a scanner, reader or other electronic device that is used to access, read, scan, obtain, memorize or store, temporarily or permanently, information that is encoded chip-enabled cards or on a magnetic strip or stripe of a credit card.

(2) (a) It is unlawful for a person to use, directly or indirectly, a scanning device or reencoder without the permission of the cardholder of the credit card from which the information is being scanned or reencoded with the intent to defraud the cardholder, the issuer or a merchant.

(b) A person who violates this section commits a felony punishable, upon conviction thereof, by imprisonment not to exceed five (5) years, a fine not to exceed Ten Thousand Dollars (\$10,000.00), or both.

(c) Upon a second or subsequent conviction of a violation of the provisions of this section, the offender shall be imprisoned for not less than one (1) year nor more than ten (10) years, and may be fined not more than Twenty Thousand Dollars (\$20,000.00).



(3) In addition to the penalties provided in subsection (2) of this section, a person convicted under this section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense.

SECTION 7. Section 97-21-23, Mississippi Code of 1972, is amended as follows:

97-21-23. Every person who shall be convicted of having made or engraved, or having caused or procured to be made or engraved, any plate in the form or similitude of any promissory note, bill of exchange, draft, check, certificate of deposit, or other evidence of debt, issued by any incorporated bank in this state, or by any bank incorporated under the laws of the United States, or of any state or territory, or under the laws of any foreign country or government, without the authority of such bank, with the intent of using or having the same used for the purpose of taking therefrom any impression, to be passed, sold, or altered, or of having made or caused to be made, or having in his custody or possession any plate upon which shall be engraved any figures or words which may be used for the purpose of falsely altering any evidence of debt issued by any such incorporated bank, with the intent of having the same used for such purpose, or of having or keeping in his custody or possession, without the authority of such bank, any impression taken from any such plate, with intent to have the same filled up and completed for the purpose of being



371 passed, sold, or uttered, or using or having in his custody or
372 possession check-printing software or hardware with the intent to
373 produce, make, design, or otherwise utter a counterfeit promissory
374 note, bill of exchange, draft, check, bank check, certificate of
375 deposit, or other evidence of debt, treasury note or monetary
376 instrument shall be guilty of forgery.

377 **SECTION 8.** Sections 1 through 4 of this act shall be
378 codified as a new chapter within Title 97, Mississippi Code of
379 1972.

380 **SECTION 9.** This act shall take effect and be in force from
381 and after July 1, 2025.

