

By: Representative Smith (39th)

To: Judiciary B

HOUSE BILL NO. 1267

1 AN ACT TO CREATE THE CRIMINAL OFFENSE OF SKIMMING; TO DEFINE
2 CERTAIN TERMS; TO PROVIDE PENALTIES FOR VIOLATIONS; TO CREATE THE
3 CRIMINAL OFFENSE OF THAT THEFT FROM THREE OR MORE MERCHANTS WITHIN
4 A CERTAIN TIME PERIOD; TO PROVIDE PENALTIES FOR VIOLATIONS; TO
5 PROHIBIT THE FRAUDULENT USE OF RECEIPTS OR UNIFORM PRODUCT CODE
6 LABELS; TO PROVIDE PENALTIES FOR VIOLATIONS; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** Sections 1, 2 and 3 of this act shall be known
10 and may be cited as the Anti-Skimming Act.

11 **SECTION 2.** As used in Sections 1, 2 and 3 of this act, the
12 terms:

13 (a) "Scanning Device" means a scanner, reader or any
14 other electronic device that is used to access, read, scan,
15 obtain, memorize or store, temporarily or permanently, information
16 encoded on the magnetic strip or stripe of a payment card.

17 (b) "Re-encoder" means an electronic device that places
18 encoded information from the magnetic strip or stripe of a payment
19 card onto the magnetic strip or stripe of a different payment
20 card.

21 (c) "Payment Card" means a credit card, charge card,
22 debit card, hotel key card, stored value card, or any other card
23 that is issued to an authorized card user and that allows the user
24 to obtain, purchase, or receive goods, services, money or anything
25 else of value from a merchant.

26 (d) "Merchant" means an owner or operator of any retail
27 mercantile establishment or any agent, employee, lessee,
28 consignee, officer, director, franchisee or independent contractor
29 of such owner or operator. A "merchant" means a person who

30 receives from an authorized user of a payment card, or someone the
31 person believes to be an authorized user, a payment card or
32 information from a payment card, or what the person believes to be
33 a payment card or information from a payment card, as the
34 instrument for obtaining, purchasing or receiving goods, services,
35 money or anything else of value from the person.

36 (e) "Authorized card user" means any person with the
37 empowerment, permission or competence to act in the usage of any
38 "payment card" to include, but not limited to, a credit card,
39 debit card, hotel key card, stored value card or any other card
40 that allows the user to obtain, purchase, or receive goods,
41 services, money, or anything else of value from a merchant.

42 **SECTION 3.** (1) It is a felony for a person to use:

43 (a) A scanning device to access, read, obtain,
44 memorize, or store, temporarily or permanently, information
45 encoded on the magnetic strip or stripe of a payment card without
46 the permission of the authorized user of the payment card and with
47 the intent to defraud the authorized user, the issuer of the
48 authorized user's payment card or a merchant.

49 (b) A re-encoder to place to place information encoded
50 on the magnetic strip or stripe of a payment card onto the
51 magnetic strip or stripe of a different card without the
52 permission of the authorized user of the card from which the
53 information is being re-encoded and with the intent to defraud the
54 authorized user, the issuer of the authorized user's payment card
55 or a merchant.

56 (2) Any person who violates the provisions of this section
57 shall, upon conviction, be punished for a first offense by a fine
58 of not more than Five Thousand Dollars (\$5,000.00) or imprisonment
59 for not more than five (5) years, or both. For a second or
60 subsequent conviction such offender shall be punished by a fine of
61 not more than Ten Thousand Dollars (\$10,000.00) or imprisonment
62 for not more than ten (10) years or both.

63 **SECTION 4.** (1) Theft is a felony when the goods, wares, or
64 merchandise shoplifted are of the value of Five Hundred Dollars
65 (\$500.00) or more, or when the goods, wares, or merchandise
66 shoplifted are from three (3) separate mercantile establishments
67 during a "criminal episode, regardless of the value of the goods.

68 (2) Theft committed from three (3) or more individual
69 mercantile establishments over a period of time encompassing five
70 (5) days.

71 **SECTION 5.** (1) A person who, with intent to cheat or
72 defraud a retailer, possesses, uses, utters, transfers, makes,
73 alters, counterfeits, or reproduces a retail sales receipt or a
74 Universal Product Code Label, commits a misdemeanor and shall,
75 upon conviction be subject to a fine of up to One Thousand Dollars
76 (\$1,000.00) or imprisonment for up to one (1) year or both.

77 (2) A person who, with intent to cheat or defraud a
78 retailer, possesses fifteen (15) or more fraudulent retail sales
79 receipts, Universal Product Code Labels or possesses the device
80 which purposes is to manufacture fraudulent retail sales receipts
81 or Universal Product Code Labels, will be guilty of a felony and
82 shall, upon conviction, be subject to a fine of up to Five
83 Thousand Dollars (\$5,000.00) or imprisonment for up to five (5)
84 years or both.

85 **SECTION 6.** This act shall take effect and be in force from
86 and after July 1, 2005.