

**Effective 5/3/2023**

**76-6-506.7 Obtaining encoded information on a financial transaction card with the intent to defraud the issuer, holder, or merchant.**

- (1)
    - (a) As used in this section:
      - (i) "Card holder" means the same as that term is defined in Section 76-6-506.
      - (ii) "Financial transaction card" or "card" means any credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card, or any other card, issued by an issuer for the use of the card holder in:
        - (A) obtaining money, goods, services, or anything else of value on credit; or
        - (B) certifying or guaranteeing to a merchant the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other thing of value from the merchant.
    - (iii)
      - (A) "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of the owner or operator.
      - (B) "Merchant" also means a person:
        - (I) who receives from a card holder, or a third person the merchant believes to be the card holder, a financial transaction card or information from a financial transaction card, or what the merchant believes to be a financial transaction card or information from a card; and
        - (II) who accepts the financial transaction card or information from a card under Subsection (1)(a)(ii)(B) as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other thing of value from the merchant.
    - (iv) "Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe of a different financial transaction card.
    - (v) "Scanning device" means a scanner, reader, or any other electronic device used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a financial transaction card.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.
- (2) An actor commits obtaining encoded information on a financial transaction card with the intent to defraud the issuer, holder, or merchant if the actor uses:
  - (a) a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a financial transaction card:
    - (i) without the permission of the card holder; and
    - (ii) with intent to defraud the card holder, the issuer, or a merchant; or
  - (b) a reencoder to place information encoded on the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe of a different card:
    - (i) without the permission of the authorized user of the card from which the information is being reencoded; and
    - (ii) with the intent to defraud the card holder, the issuer, or a merchant.
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.

- (b) An actor who has been convicted previously of an offense under Subsection (2) is guilty of a second degree felony upon a second conviction and any subsequent conviction for the offense.
- (4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.
- (5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Amended by Chapter 111, 2023 General Session