

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1832

99TH GENERAL ASSEMBLY

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Reported from the Committee on Small Business and Industry, May 9, 2018, with recommendation that the Senate Committee Substitute do pass.

5497S.02C

ADRIANE D. CROUSE, Secretary.

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## AN ACT

To repeal sections 407.300, 407.432, 407.433, and 407.436, RSMo, and to enact in lieu thereof six new section relating to merchandising practices, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 407.300, 407.432, 407.433, and 407.436, RSMo, are  
2 repealed and six new sections enacted in lieu thereof, to be known as sections  
3 407.300, 407.431, 407.432, 407.433, 407.435, and 407.436, to read as follows:

407.300. 1. Every purchaser or collector of, or dealer in, junk, scrap  
2 metal, or any secondhand property shall keep a register containing a written or  
3 electronic record for each purchase or trade in which each type of [metal]  
4 **material** subject to the provisions of this section is obtained for value. There  
5 shall be a separate record for each transaction involving any:

- 6 (1) Copper, brass, or bronze;
- 7 (2) Aluminum wire, cable, pipe, tubing, bar, ingot, rod, fitting, or fastener;
- 8 (3) Material containing copper or aluminum that is knowingly used for  
9 farming purposes as farming is defined in section 350.010; whatever may be the  
10 condition or length of such metal; [or]
- 11 (4) Catalytic converter; **or**
- 12 (5) **Motor vehicle, heavy equipment, or tractor battery.**

13 2. The record required by this section shall contain the following data:

- 14 (1) A copy of the driver's license or photo identification issued by the state  
15 or by the United States government or agency thereof to the person from whom  
16 the material is obtained;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 (2) The current address, gender, birth date, and a photograph of the  
18 person from whom the material is obtained if not included or are different from  
19 the identification required in subdivision (1) of this subsection;

20 (3) The date, time, and place of the transaction;

21 (4) The license plate number of the vehicle used by the seller during the  
22 transaction;

23 (5) A full description of the [metal] **material**, including the weight and  
24 purchase price.

25 3. The records required under this section shall be maintained for a  
26 minimum of twenty-four months from when such material is obtained and shall  
27 be available for inspection by any law enforcement officer.

28 4. Anyone convicted of violating this section shall be guilty of a class B  
29 misdemeanor.

30 5. This section shall not apply to any of the following transactions:

31 (1) Any transaction for which the total amount paid for all regulated  
32 [scrap metal] **material** purchased or sold does not exceed fifty dollars, unless the  
33 [scrap metal] **material** is a catalytic converter;

34 (2) Any transaction for which the seller, including a farm or farmer, has  
35 an existing business relationship with the scrap metal dealer and is known to the  
36 scrap metal dealer making the purchase to be an established business or political  
37 subdivision that operates a business with a fixed location that can be reasonably  
38 expected to generate regulated scrap metal and can be reasonably identified as  
39 such a business; or

40 (3) Any transaction for which the type of metal subject to subsection 1 of  
41 this section is a minor part of a larger item, except for equipment used in the  
42 generation and transmission of electrical power or telecommunications.

**407.431. The violation of any provision of sections 407.430 to  
2 407.436 of this credit user protection law constitutes an unlawful  
3 practice under sections 407.010 to 407.130, and the violator shall be  
4 subject to all penalties, remedies, and procedures under sections  
5 407.010 to 407.130. The attorney general shall have all powers, rights,  
6 and duties regarding violations of sections 407.430 to 407.436 as are  
7 provided in sections 407.010 to 407.130, in addition to rulemaking  
8 authority under section 407.145.**

407.432. As used in sections 407.430 to 407.436, the following terms shall  
2 mean:

3 (1) "Acquirer", a business organization, financial institution, or an agent  
4 of a business organization or financial institution that authorizes a merchant to  
5 accept payment by credit card for merchandise;

6 (2) "Cardholder", the person's name on the face of a credit card to whom  
7 or for whose benefit the credit card is issued by an issuer[,] or any agent,  
8 authorized signatory, or employee of such person;

9 (3) **"Chip", an integrated circuit imbedded in a card that stores**  
10 **data so that the card may use the EMV payment method for**  
11 **transactions;**

12 (4) **"Contactless payment", any payment method that uses a**  
13 **contactless smart card, a near field communication (NFC) antenna,**  
14 **radio-frequency identification (RFID) technology, or other method to**  
15 **remotely communicate data to a scanning device for transactions;**

16 (5) "Counterfeit credit card", any credit card which is fictitious, altered,  
17 or forged, any false representation, depiction, facsimile or component of a credit  
18 card, or any credit card which is stolen, obtained as part of a scheme to defraud,  
19 or otherwise unlawfully obtained, and which may or may not be embossed with  
20 account information or a company logo;

21 [(4)] (6) "Credit card" [or "debit card"], any instrument or device,  
22 whether known as a credit card, credit plate, bank service card, banking card,  
23 check guarantee card, or debit card or by any other name, **that is** issued with or  
24 without a fee by an issuer for the use of the cardholder in obtaining money or  
25 merchandise on credit[,] **or by transferring payment from the cardholder's**  
26 **checking account** or for use in an automated banking device to obtain any of  
27 the services offered through the device. The presentation of a credit card account  
28 number is deemed to be the presentation of a credit card. **"Credit card" shall**  
29 **include credit or debit cards whose information is stored in a digital**  
30 **wallet for use in in-app purchases or contactless payments;**

31 [(5)] (7) "Expired credit card", a credit card for which the expiration date  
32 shown on it has passed;

33 [(6)] (8) "Issuer", the business organization [or], financial institution, or  
34 [its] duly authorized agent[, which] **thereof that** issues a credit card;

35 [(7)] (9) "Merchandise", any objects, wares, goods, commodities,  
36 intangibles, real estate, services, or anything else of value;

37 [(8)] (10) "Merchant", an owner or operator of any retail mercantile  
38 establishment, or any agent, employee, lessee, consignee, officer, director,

39 franchisee, or independent contractor of such owner or operator. A merchant  
40 includes a person who receives from [an authorized user of a payment card] a  
41 **cardholder**, or an individual the person believes to be [an authorized user] a  
42 **cardholder**, a [payment] **credit** card or information from a [payment] **credit**  
43 card as the instrument for obtaining, purchasing, or receiving goods, services,  
44 money, or anything of value from the person;

45 [(9)] (11) "Person", any natural person or his legal representative,  
46 partnership, firm, for-profit or not-for-profit corporation, whether domestic or  
47 foreign, company, foundation, trust, business entity or association, and any agent,  
48 employee, salesman, partner, officer, director, member, stockholder, associate,  
49 trustee or cestui que trust thereof;

50 [(10)] (12) "Reencoder", an electronic device that places encoded  
51 information from the **chip or** magnetic strip or stripe of a credit [or debit] card  
52 onto the **chip or** magnetic strip or stripe of a different credit [or debit] card;

53 [(11)] (13) "Revoked credit card", a credit card for which permission to  
54 use it has been suspended or terminated by the issuer;

55 [(12)] (14) "Scanning device", a scanner, reader, or any other electronic  
56 device that is used to access, read, scan, obtain, memorize, or store, temporarily  
57 or permanently, information **stored in the chip or** encoded on the magnetic  
58 strip or stripe of a credit [or debit] card. **"Scanning device" shall include**  
59 **devices used by a merchant for contactless payments.**

407.433. 1. No person, other than the cardholder, shall:

2 (1) Disclose more than the last five digits of a credit card [or debit card]  
3 account number on any sales receipt provided to the cardholder for merchandise  
4 sold in this state[;

5 (2) Use a scanning device to access, read, obtain, memorize, or store,  
6 temporarily or permanently, information encoded on the magnetic strip or stripe  
7 of a credit or debit card without the permission of the cardholder and with the  
8 intent to defraud any person, the issuer, or a merchant; or

9 (3) Use a reencoder to place information encoded on the magnetic strip or  
10 stripe of a credit or debit card onto the magnetic strip or stripe of a different card  
11 without the permission of the cardholder from which the information is being  
12 reencoded and with the intent to defraud any person, the issuer, or a merchant].

13 2. Any person who knowingly violates this section is guilty of an  
14 infraction and any second or subsequent violation of this section is a class A  
15 misdemeanor.

16           3. It shall not be a violation of subdivision (1) of subsection 1 of this  
17 section if:

18           (1) The sole means of recording the credit card number [or debit card  
19 number] is by handwriting or, prior to January 1, 2005, by an imprint of the  
20 credit card [or debit card]; and

21           (2) For handwritten or imprinted copies of credit card [or debit card]  
22 receipts, only the merchant's copy of the receipt lists more than the last five  
23 digits of the account number.

24           4. This section shall become effective on January 1, 2003, and applies to  
25 any cash register or other machine or device that prints or imprints receipts of  
26 credit card [or debit card] transactions and which is placed into service on or  
27 after January 1, 2003. Any cash register or other machine or device that prints  
28 or imprints receipts on credit card [or debit card] transactions and which is  
29 placed in service prior to January 1, 2003, shall be subject to the provisions of  
30 this section on or after January 1, 2005.

**407.435. 1. A person commits the offense of illegal use of a card  
2 scanner if the person:**

3           **(1) Directly or indirectly uses a scanning device to access, read,  
4 obtain, memorize, or store, temporarily or permanently, information  
5 stored in the chip or encoded on the magnetic strip or stripe of a credit  
6 card without the permission of the cardholder, the credit card issuer,  
7 or a merchant;**

8           **(2) Possesses a scanning device with the intent to defraud a  
9 cardholder, credit card issuer, or merchant or possesses a scanning  
10 device with the knowledge that some other person intends to use the  
11 scanning device to defraud a cardholder, credit card issuer, or  
12 merchant;**

13           **(3) Directly or indirectly uses a reencoder to copy a credit card  
14 without the permission of the cardholder of the card from which the  
15 information is being reencoded and does so with the intent to defraud  
16 the cardholder, the credit card issuer, or a merchant; or**

17           **(4) Possesses a reencoder with the intent to defraud a  
18 cardholder, credit card issuer, or merchant or possesses a reencoder  
19 with the knowledge that some other person intends to use the  
20 reencoder to defraud a cardholder, credit card issuer, or merchant.**

21           **2. The offense of illegal use of a card scanner is a class D**

22 **felony. However, a second or subsequent offense arising from a**  
23 **separate incident is a class C felony.**

407.436. [1. Any person who willfully and knowingly, and with the intent  
2 to defraud, engages in any practice declared to be an unlawful practice in sections  
3 407.430 to 407.436 of this credit user protection law shall be guilty of a class E  
4 felony.

5 2. The violation of any provision of sections 407.430 to 407.436 of this  
6 credit user protection law constitutes an unlawful practice pursuant to sections  
7 407.010 to 407.130, and the violator shall be subject to all penalties, remedies and  
8 procedures provided in sections 407.010 to 407.130. The attorney general shall  
9 have all powers, rights, and duties regarding violations of sections 407.430 to  
10 407.436 as are provided in sections 407.010 to 407.130, in addition to rulemaking  
11 authority as provided in section 407.145.] **A person commits the offense of**  
12 **defacing a credit card reader if a person damages, defaces, alters, or**  
13 **destroys a scanning device and the person has no right to do so. The**  
14 **offense of defacing a credit card reader is a class A misdemeanor.**

✓  
Bill

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