ASSEMBLY BILL NO. 83–COMMITTEE ON JUDICIARY

(ON BEHALF OF CLARK COUNTY)

FEBRUARY 4, 1999

Referred to Committee on Judiciary

SUMMARY—Provides that certain crimes and civil actions concerning credit cards also apply to debit cards. (BDR 15-273)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[**~~omitted material~~**]** is material to be omitted.

AN ACT relating to debit cards; providing that certain crimes and civil actions concerning credit cards also apply to debit cards; providing penalties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

"Debit card" means any instrument or device, whether known as a debit card or by any other name, that is issued with or without a fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value, subject to the issuer removing money from the checking account or savings account of the cardholder.

Sec. 2. NRS 205.610 is hereby amended to read as follows:

205.610 As used in NRS 205.610 to 205.810, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 205.620 to 205.670, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 205.620 is hereby amended to read as follows:

205.620 "Cardholder" means the person or organization named on the face of a credit card ***or debit card*** to whom or for whose benefit the credit card ***or debit card*** is issued by an issuer.

Sec. 4. NRS 205.640 is hereby amended to read as follows:

205.640 “Expired credit card ~~[”]~~ ***or debit card”*** means a credit card ~~[which]~~ ***or debit card that*** is no longer valid because the term shown on it has elapsed.

Sec. 5. NRS 205.650 is hereby amended to read as follows:

205.650 “Issuer” means the business organization, financial institution or a duly authorized agent of a business organization or financial institution which issues a credit card ~~[.]~~ ***or debit card.***

Sec. 6. NRS 205.670 is hereby amended to read as follows:

205.670 “Revoked credit card ~~[”]~~ ***or debit card”*** means a credit card ~~[which]~~ ***or debit card that*** is no longer valid because permission to use it has been suspended or terminated by the issuer.

Sec. 7. NRS 205.680 is hereby amended to read as follows:

205.680 Any person who, for the purpose of procuring the issuance of a credit card ~~[,]~~ ***or debit card,*** makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false, with intent that it be relied on respecting his identity or financial condition or the identity or financial condition of any other person, firm or corporation is guilty of a gross misdemeanor.

Sec. 8. NRS 205.690 is hereby amended to read as follows:

205.690 1. A person who steals, takes or removes a credit card ***or debit card*** from the person, possession, custody or control of another without the cardholder’s consent or who, with knowledge that a credit card ***or debit card*** has been so taken, removed or stolen receives the credit card ***or debit card*** with the intent to circulate, use or sell it or to transfer it to a person other than the issuer or the cardholder, is guilty of a category D felony and shall be punished as provided in NRS 193.130. ***In addition to any other penalty, the court shall order the person to pay restitution.***

2. A person who possesses a credit card ***or debit card*** without the consent of the cardholder and with the intent to circulate, use, sell or transfer the credit card ***or debit card*** with the intent to defraud is guilty of a category D felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

3. A person who has in his possession or under his control two or more credit cards ***or debit cards*** issued in the name of another person is presumed to have obtained and to possess the credit cards ***or debit cards*** with the knowledge that they have been stolen and with the intent to circulate, use, sell or transfer them with the intent to defraud. The presumption established by this subsection does not apply to the possession of two or more credit cards ***or debit cards*** used in the regular course of the possessor’s business or employment or where the possession is with the consent of the cardholder.

4. The provisions of this section do not apply to a person employed by or operating a business, including, but not limited to, a ***bank or other financial institution,*** credit bureau, collection agency or credit reporting agency, who, without the intent to defraud, lawfully furnishes to another person or obtains the number or other identifying description of a credit card ***, debit card*** or credit account in the ordinary course of that business or employment or pursuant to a financial transaction entered into with a customer.

5. ~~[For the purposes of]~~ ***As used in*** this section ~~[, "credit]~~ ***:***

(a) "Credit card" includes ***, without limitation,*** the number or other identifying description of a credit card or credit account.

(b) "Debit card" includes, without limitation, the number or other identifying description of a debit card.

Sec. 9. NRS 205.710 is hereby amended to read as follows:

205.710 1. A person, except the issuer, who ~~[sells]~~ ***:***

(a) Sells a credit card ***or debit card*** or the number or other identifying description of a credit card ***, debit card*** or credit account ~~[, or a person who buys]~~ ***; or***

(b) Buys a credit card ***, debit card*** or the number or other identifying description of a credit card ***, debit card*** or credit account from a person other than the issuer ***,***

is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. The provisions of this section do not apply to a person employed by or operating a business, including, but not limited to, a ***bank or other financial institution,*** credit bureau, collection agency or credit reporting agency, who, without the intent to defraud, lawfully furnishes to another person or obtains the number or other identifying description of a credit card ***, debit card*** or credit account in the ordinary course of that business or employment or pursuant to a financial transaction entered into with a customer.

Sec. 10. NRS 205.720 is hereby amended to read as follows:

205.720 A person who, with the intent to defraud, obtains control over a credit card ***or debit card*** as security for debt is guilty of a category D felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 11. NRS 205.740 is hereby amended to read as follows:

205.740 1. A person who, with the intent to defraud, falsely makes or falsely embosses a purported credit card ***or debit card*** or utters such a credit card ***or debit card*** is guilty of a category D felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. A person, except the purported issuer, who possesses two or more credit cards ~~[which]~~ ***or debit cards that*** are falsely made or falsely embossed is presumed to have violated this section.

3. For the purpose of this section:

(a) A person "falsely makes" a credit card ***or debit card*** when he alters a validly issued credit card ***or debit card*** or makes or draws, in whole or in part, a device or instrument which purports to be the credit card ***or debit card*** of a named issuer where the issuer did not authorize the making or drawing.

(b) A person "falsely embosses" a credit card ***or debit card*** when, without the authorization of the named issuer, he completes a credit card ***or debit card*** by adding any matter, except the signature of the cardholder, which the issuer requires to appear on the credit card ***or debit card*** before the credit card ***or debit card*** can be used by a cardholder.

Sec. 12. NRS 205.750 is hereby amended to read as follows:

205.750 A person, except the cardholder or a person authorized by the cardholder, who signs a credit card, ***debit card,*** sales slip, sales draft or instrument for the payment of money which evidences a credit card ***or debit card*** transaction with the intent to defraud is guilty of a category D felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 13. NRS 205.760 is hereby amended to read as follows:

205.760 1. ~~[A]~~ ***Unless a greater penalty is provided pursuant to NRS 205.222 for a violation of subsection 2 of NRS 205.220, a*** person who, with the intent to defraud:

(a) Uses a credit card ***or debit card*** to obtain money, goods, property, services or anything of value where the credit card ***or debit card*** was obtained or retained in violation of NRS 205.690 to 205.750, inclusive, or where the person knows the credit card ***or debit card*** is forged or is the expired or revoked credit card ***or debit card*** of another;

(b) Uses the number or other identifying description of a credit account, customarily evidenced by a credit card ~~[,]~~ ***or the number or other identifying description of a debit card,*** to obtain money, goods, property, services or anything of value without the consent of the cardholder; or

(c) Obtains money, goods, property, services or anything else of value by representing, without the consent of the cardholder, that he is the authorized holder of a specified card or that he is the holder of a card where the card has not in fact been issued,

is guilty of a public offense and shall be punished for a category D felony as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. ~~[A]~~ ***Unless a greater penalty is provided pursuant to NRS 205.222 for a violation of subsection 2 of NRS 205.220, a*** person who, with the intent to defraud, uses a credit card ***or debit card*** to obtain money, goods, property, services or anything of value where the credit card ***or debit card*** was issued in his name and which he knows is revoked or expired, or when he knows he does not have sufficient money or property with which to pay for the extension of credit ~~[,]~~ ***or to cover the debit from the account linked to his debit card,*** shall be punished, where the amount of money or the value of the goods, property, services or other things of value so obtained in any 6-month period is:

(a) One hundred dollars or more, for a category D felony as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

(b) Less than $100, for a misdemeanor.

3. A person is presumed to have knowledge of the revocation of a credit card ***or debit card*** 4 days after notice of the revocation has been mailed to him by registered or certified mail, return receipt requested, at the address set forth on the credit card ***or debit card*** or at his last known address. If the address is more than 500 miles from the place of mailing, notice must be sent by airmail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone and Canada, notice may be presumed to have been received 10 days after the mailing.

Sec. 14. NRS 205.765 is hereby amended to read as follows:

205.765 In a criminal action for using a credit card ***or debit card*** to obtain money, goods, property, services or anything of value with insufficient money or property with which to pay for the extension of credit, with intent to defraud, that intent and the knowledge that the holder of the credit card has insufficient money or property is presumed to exist if payment is refused by the issuer or other creditor when it is presented in the usual course of business, unless within ***5 days after payment is refused by the issuer if the action involves the use of a debit card or within*** 10 days after payment is refused by the issuer ~~[,]~~ ***if the action involves the use of a credit card,*** the holder of the credit card pays the full amount due plus any handling charges.

Sec. 15. NRS 205.770 is hereby amended to read as follows:

205.770 A person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card ***or debit card*** by the cardholder, or an agent or employee of the authorized person, who, with the intent to defraud, furnishes money, goods, property, services or anything else of value upon presentation of a credit card ~~[which]~~ ***or debit card that*** the person, employee or agent knows was obtained or retained in violation of NRS 205.690 to 205.750, inclusive, or is forged, expired or revoked is guilty of a category D felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 16. NRS 205.780 is hereby amended to read as follows:

205.780 A person who is authorized by an issuer to furnish money, goods, property, services or anything of value upon presentation of a credit card ***or debit card*** by the cardholder, or an agent or employee of the authorized person, who, with the intent to defraud, misrepresents to the issuer the value of the goods he furnishes or who fails to furnish money, goods, property, services or anything else of value which he represents in writing to the issuer that he has furnished is guilty of a category D felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 17. NRS 205.790 is hereby amended to read as follows:

205.790 1. A person, except the cardholder, who possesses two or more incomplete credit cards ***or debit cards*** with the intent to complete them without the consent of the issuer, or a person who, with knowledge of its character, possesses machinery, plates or any other contrivance designed to produce instruments which purport to be the credit cards ***or debit cards*** of an issuer who has not consented to the preparation of such credit cards ***or debit cards*** is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. As used in this section, a credit card ***or debit card*** is "incomplete" if part of the matter, except the signature of the cardholder, required by an issuer to appear on the credit card ***or debit card*** has not yet been stamped, embossed, imprinted or written on the credit card ~~[.]~~ ***or debit card.***

Sec. 18. NRS 41.620 is hereby amended to read as follows:

41.620 1. Any person who:

(a) Makes, utters, draws or delivers a check or draft for the payment of money drawn upon any financial institution or other person, when he has no account with the drawee of the instrument or has insufficient money, property or credit with the drawee to pay; or

(b) Uses a credit card ***or debit card*** to obtain money, goods, property, services or anything of value, when he knows or should have known the credit card ***or debit card*** is no longer valid,

and who fails to pay the amount in cash to the payee, issuer or other creditor within 30 days after a demand therefor in writing is mailed to him by certified mail, is liable to the payee, issuer or other creditor for the amount of the check, draft or extension of credit, and damages equal to three times the amount of the check, draft or extension of credit, but not less than $100 nor more than $500.

2. As used in this section, unless the context otherwise requires:

(a) "Credit card" has the meaning ascribed to it in NRS 205.630; ~~[and]~~

(b) ***"Debit card" has the meaning ascribed to it in section 1 of this act; and***

(c) "Issuer" has the meaning ascribed to it in NRS 205.650.

Sec. 19. The amendatory provisions of this act do not apply to offenses that are committed before October 1, 1999.

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