SENATE BILL NO. 223–SENATOR WIENER

MARCH 13, 2009

Referred to Committee on Judiciary

SUMMARY—Revises the provisions relating to certain crimes involving credit cards and debit cards. (BDR 15-73)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 crimes; revising the provisions relating to certain crimes involving credit cards and debit cards; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from: (1) obtaining or possessing the credit card or debit card, or the identifying description of the credit card or debit card, of another person who is the cardholder, without the consent of the cardholder, with the intent to circulate, use, sell or transfer the card or the identifying description of the card; (2) selling a credit card or debit card or the number or other identifying description of a credit card, debit card or credit account; (3) buying 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; and (4) using, with the intent to defraud, 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. (NRS 205.690, 205.710, 205.760) **Sections 1-3** of this bill clarify existing law by providing that for the purposes of these crimes, the identifying description of a credit card or debit card may be a physical or electronic description of the credit card or debit card.

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

Section 1. 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 ***physical or electronic*** 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. As used in this section:

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

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

Sec. 2. NRS 205.710 is hereby amended to read as follows:

205.710 1. A person, except the issuer, who:

(a) Sells a credit card or debit card or the number or other identifying ***physical or electronic*** description of a credit card, debit card or credit account; or

(b) Buys a credit card, debit card or the number or other identifying ***physical or electronic*** 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 ***physical or electronic*** 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. 3. NRS 205.760 is hereby amended to read as follows:

205.760 1. 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 ***physical or electronic*** description of a credit account, customarily evidenced by a credit card or the number or other identifying ***physical or electronic*** 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. 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.