

ACT No. 495

HOUSE BILL NO. 654

BY REPRESENTATIVES WOOTON, ABRAMSON, ANDERS, ARMES, ARNOLD, AUBERT, AUSTIN BADON, BOBBY BADON, BALDONE, BILLIOT, BURFORD, HENRY BURNS, BURRELL, CARMODY, CHAMPAGNE, CHANEY, CONNICK, DOWNS, GALLOT, GISCLAIR, ELBERT GUILLORY, MICKEY GUILLORY, GUINN, HARDY, HARRISON, HAZEL, HENRY, HINES, HOFFMANN, HONEY, HOWARD, HUTTER, JOHNSON, ROSALIND JONES, KATZ, LEBAS, LEGER, LIGI, LOPINTO, LORUSSO, MORRELL, PEARSON, PONTI, POPE, PUGH, RICHARD, RICHARDSON, RICHMOND, ROY, SIMON, GARY SMITH, JANE SMITH, PATRICIA SMITH, TEMPLET, TRAHAN, TUCKER, WADDELL, WHITE, WILLIAMS, AND WILLMOTT

1 AN ACT

2 To amend and reenact R.S. 14:67.4(C), (D), and (E), 67.16(C)(4), (D), (E), (F), and (G),
3 67.22(C), 70.4(E)(1), (2), and (3), 71.1(B), and 72.2(B) and to enact R.S.
4 14:67.16(H), 67.22(D), 70.4(E)(4), 71.1(C), and 72.2(D), relative to offenses against
5 property; to amend the criminal penalties for certain offenses against property; to
6 require that persons convicted of certain offenses against property be ordered to
7 make restitution; to provide for periodic payment plans when the offender is found
8 to be indigent; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 14:67.4(C), (D), and (E), 67.16(C)(4), (D), (E), (F), and (G),
11 67.22(C), 70.4(E)(1), (2), and (3), 71.1(B), and 72.2(B) are hereby amended and reenacted
12 and R.S. 14:67.16(H), 67.22(D), 70.4(E)(4), 71.1(C), and 72.2(D) are hereby enacted to read
13 as follows:

14 §67.4. Anti-Skimming Act

15 * * *

16 C. It shall be unlawful for any person to do either of the following:

- 17 (1) Use a scanning device to access, read, obtain, memorize, or store,
18 temporarily or permanently, information encoded on the magnetic strip or stripe of
19 a payment card without the permission of the authorized user of the payment card

1 and with the intent to defraud the authorized user, the issuer of the authorized user's
2 payment card, or a merchant.

3 (2) Use a re-encoder to place information encoded on the magnetic strip or
4 stripe of a payment card onto the magnetic strip or stripe of a different card without
5 the permission of the authorized user of the card from which the information is being
6 re-encoded and with the intent to defraud the authorized user, the issuer of the
7 authorized user's payment card, or a merchant.

8 ~~(3) D.(1)~~ Whoever violates the provisions of this Subsection Subsection C
9 of this Section shall be imprisoned, with or without hard labor, for not more than five
10 years, or fined not more than five thousand dollars, or both.

11 ~~D.(2)~~ Whoever, directly or indirectly, by agent or otherwise, uses a scanning
12 device and a re-encoder in violation of Subsection C of this Section and with the
13 intent to defraud shall be imprisoned, with or without hard labor, for not more than
14 ten years, or fined not more than ten thousand dollars, or both.

15 (3) Upon a third or subsequent conviction of a violation of the provisions of
16 this Section, the offender shall be imprisoned, with or without hard labor, for not
17 more than ten years, or may be fined not more than twenty thousand dollars, or both.

18 ~~E. In addition to any other fine or penalty imposed under this Section or~~
19 ~~under R.S. 14:67, the court may, at its discretion, order as a part of the sentence,~~
20 ~~restitution.~~ In addition to the penalties provided in Subsection D of this Section, a
21 person convicted under this Section shall be ordered to make full restitution to the
22 victim and any other person who has suffered a financial loss as a result of the
23 offense. If a person ordered to make restitution pursuant to this Section is found to
24 be indigent and therefore unable to make restitution in full at the time of conviction,
25 the court shall order a periodic payment plan consistent with the person's financial
26 ability.

27 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §67.16. Identity theft

2 * * *

3 C.

4 * * *

5 (4)(a) Whoever commits the crime of identity theft when credit, money,
6 goods, services, or any thing else of value is obtained, possessed, or transferred,
7 which amounts to a value less than three hundred dollars, shall be imprisoned for not
8 more than six months, or may be fined not more than five hundred dollars, or both.
9 ~~If the offender in such cases has been convicted under this Paragraph two or more~~
10 ~~times previously, upon any subsequent conviction he shall be imprisoned, with or~~
11 ~~without hard labor, for not more than three years, or may be fined not more than~~
12 ~~three thousand dollars, or both.~~

13 (b) Whoever commits the crime of identity theft when the victim is sixty
14 years of age or older or a disabled person when the credit, money, goods, services,
15 or any thing else of value is obtained which amounts to a value less than three
16 hundred dollars, shall be imprisoned; with or without hard labor, for not less than six
17 months and not more than one year, or may be fined not more than five hundred
18 dollars, or both. ~~If the offender in such cases has been convicted under this~~
19 ~~Paragraph two or more times previously, upon any subsequent conviction he shall~~
20 ~~be imprisoned, with or without hard labor, for not less than one year and not more~~
21 ~~than three years, or may be fined not more than three thousand dollars, or both.~~

22 (c) Whoever commits the crime of identity theft when the victim is under the
23 age of seventeen when the credit, money, goods, services, or any thing else of value
24 is obtained which amounts to a value less than three hundred dollars, shall be
25 imprisoned; with or without hard labor, for not less than six months and not more
26 than one year, or may be fined not more than five hundred dollars, or both. ~~If the~~
27 ~~offender in such cases has been convicted under this Paragraph two or more times~~
28 ~~previously, upon any subsequent conviction he shall be imprisoned, with or without~~
29 ~~hard labor, for not less than one year and not more than three years, or may be fined~~
30 ~~not more than three thousand dollars, or both.~~

1 D. Upon a third or subsequent conviction of a violation of the provisions of
2 this Section, the offender shall be imprisoned, with or without hard labor, for not
3 more than ten years, or may be fined not more than twenty thousand dollars, or both.

4 ~~D.~~ E. When there has been a theft by a number of distinct acts of the
5 offender, the aggregate of the amount of the theft shall determine the grade of the
6 offense.

7 ~~E.~~ F. In addition to the foregoing penalties, a person convicted under this
8 Section ~~may~~ shall be ordered to make full restitution to the victim and any other
9 person who has suffered a financial loss as a result of the offense. If a person
10 ordered to make restitution pursuant to this Section is found to be indigent and
11 therefore unable to make restitution in full at the time of conviction, the court shall
12 order a periodic payment plan consistent with the person's financial ability.

13 ~~F.~~ G. The provisions of this Section shall not apply to any person who
14 obtains another's driver's license or other form of identification for the sole purpose
15 of misrepresenting his age.

16 ~~G.~~ H.(1) Any person who has learned or reasonably suspects that his
17 personal identifying information has been unlawfully used by another in violation
18 of any provision of this Section may initiate a law enforcement investigation by
19 contacting the local law enforcement agency that has jurisdiction over the area of his
20 residence. Any law enforcement agency which is requested to conduct an
21 investigation under the provisions of this Subsection shall take a police report of the
22 matter from the victim, provide the complainant with a copy of such report, and
23 begin an investigation of the facts. If the crime was committed in a different
24 jurisdiction, the agency preparing the report shall refer the matter, with a copy of the
25 report, to the local law enforcement agency having jurisdiction over the area in
26 which the alleged crime was committed for an investigation of the facts.

27 (2) Any officer of any law enforcement agency who investigates an alleged
28 violation in compliance with the provisions of this Subsection shall make a written
29 report of the investigation that includes the name of the victim; the name of the
30 suspect, if known; the type of personal identifying information obtained, possessed,

1 transferred, or used in violation of this Section; and the results of the investigation.
 2 At the request of the victim who has requested the investigation, the law enforcement
 3 agency shall provide to such victim the report created under the provisions of this
 4 Paragraph. In providing the report, the agency shall eliminate any information that
 5 is included in the report other than the information required by this Paragraph.

6 * * *

7 §67.22. Fraudulent acquisition of a credit card

8 * * *

9 C.(1) Whoever violates the provisions of this Section shall be guilty of
 10 fraudulent acquisition of a credit card and shall be punished by a fine of not more
 11 than three thousand dollars, or imprisoned, with or without hard labor for not more
 12 than ten years, or both.

13 (2) Upon a third or subsequent conviction of a violation of the provisions of
 14 this Section, the offender shall be imprisoned, with or without hard labor, for not
 15 more than ten years, or may be fined not more than twenty thousand dollars, or both.

16 D. In addition to the penalties provided in Subsection C of this Section, a
 17 person convicted of a violation of this Section shall be ordered to make full
 18 restitution to the victim and any other person who has suffered a financial loss as a
 19 result of the offense. If a person ordered to make restitution pursuant to this Section
 20 is found to be indigent and therefore unable to make restitution in full at the time of
 21 conviction, the court shall order a periodic payment plan consistent with the person's
 22 financial ability.

23 * * *

24 §70.4. Access device fraud

25 * * *

26 E.(1) A person who commits the crime of access device fraud when the
 27 misappropriation or taking amounts to a value of five hundred dollars or more shall
 28 be imprisoned, with or without hard labor, for not more than ten years, or fined not
 29 more than ~~three~~ five thousand dollars, or both.

1 (2) When the misappropriation or taking amounts to a value of at least three
 2 hundred dollars, but less than a value of five hundred dollars, the offender shall be
 3 imprisoned, with or without hard labor, for not more than ~~two~~ three years or fined
 4 not more than ~~two~~ three thousand dollars, or both.

5 (3) When the misappropriation or taking amounts to a value of less than
 6 three hundred dollars, the offender shall be imprisoned for not more than six months
 7 or fined not more than five hundred dollars, or both. ~~An offender in violation of this~~
 8 ~~Paragraph who has previously been convicted of any violation of this Section two~~
 9 ~~or more times shall be imprisoned, with or without hard labor, for not more than two~~
 10 ~~years or fined not more than one thousand dollars, or both.~~

11 (4) Upon a third or subsequent conviction of a violation of the provisions of
 12 this Section, the offender shall be imprisoned, with or without hard labor, for not
 13 more than ten years, or may be fined not more than ten thousand dollars, or both.

14 * * *

15 §71.1. Bank fraud

16 * * *

17 B. In addition to the penalties provided in Subsection A of this Section, a
 18 person convicted under the provisions of this Section shall be ordered to make full
 19 restitution to the victim and any other person who has suffered a financial loss as a
 20 result of the offense. If a person ordered to make restitution pursuant to this Section
 21 is found to be indigent and therefore unable to make restitution in full at the time of
 22 conviction, the court shall order a periodic payment plan consistent with the person's
 23 financial ability.

