

2C:21-6.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 225

NJSA: 2C:21-6.1 (Makes the unlawful use or possession of a scanning device or reencoder a crime)

BILL NO: A2769 (Substituted for S2617)

SPONSOR(S): Cohen and others

DATE INTRODUCED: May 10, 2004

COMMITTEE: **ASSEMBLY:** Judiciary
SENATE: Commerce

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** December 13, 2004

SENATE: June 30, 2005

DATE OF APPROVAL: September 22, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (1st reprint enacted)

A2769

[SPONSOR'S STATEMENT:](#) (Begins on page 2 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S2617

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

[GOVERNOR'S PRESS RELEASE ON SIGNING:](#) [Yes](#)

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

For clippings see legislative history of 2005 c.226

IS 11/7/07

P.L. 2005, CHAPTER 225, *approved September 22, 2005*
Assembly, No. 2769 (*First Reprint*)

1 **AN ACT** concerning scanning devices and reencoders and
2 supplementing chapter 20 of Title 2C of the New Jersey Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. a. Definitions. As used in this section:

8 (1) "Merchant" means any owner or operator of any store or other
9 retail mercantile establishment, or any agent, servant, employee,
10 lessee, consignee, officer, director, franchisee or independent
11 contractor of such owner or proprietor.

12 (2) "Payment card" means a credit card, charge card, debit card or
13 any other card that is issued to an authorized card user and that allows
14 the user to obtain, purchase, or receive goods, services, money or
15 anything of value from a merchant.

16 (3) "Reencoder" means an electronic device that places encoded
17 information from the magnetic strip or stripe of a payment card onto
18 the magnetic strip or stripe of a different payment card ¹or any
19 electronic medium that allows a transaction to occur¹.

20 (4) "Scanning device" means a scanner, skimmer, reader or any
21 other electronic device that is used to access, read, scan, obtain,
22 memorize or store, temporarily or permanently, information encoded
23 on the magnetic strip or stripe of a payment card.

24 b. It shall be a crime of the third degree for a person, with the
25 intent to defraud an authorized user of a payment card, the issuer of
26 the authorized user's payment card or a merchant, to use:

27 (1) a scanning device to access, read, obtain, memorize or store,
28 temporarily or permanently, information encoded on the magnetic strip
29 or stripe of a payment card, without the permission of the authorized
30 user of the payment card; or

31 (2) a reencoder to place information encoded on the magnetic strip
32 or stripe of a payment card onto the magnetic strip or stripe of a
33 different card ¹or any electronic medium that allows a transaction to
34 occur¹ without the permission of the authorized user of the card from
35 which the information is being reencoded.

36 ¹c. It shall be a crime of the fourth degree for a person to
37 knowingly possess with intent to commit a violation of paragraphs (1)
38 or (2) of subsection b. of this section any device, apparatus,
39 equipment, software, article, material, good, property or supply that
40 is specifically designed or adapted for use as or in a scanning device
41 or reencoder.¹

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

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJU committee amendments adopted September 13, 2004.

1 2. This act shall take effect immediately.

2

3

4

5

6 _____

7 Makes the unlawful use or possession of a scanning device or
reencoder a crime.

ASSEMBLY, No. 2769

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 10, 2004

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman PATRICK DIEGNAN, JR.

District 18 (Middlesex)

Co-Sponsored by:

Assemblyman Gusciora

SYNOPSIS

Makes the unlawful use of a scanning device or reencoder a crime of the third degree.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/14/2004)

1 AN ACT concerning scanning devices and reencoders and
2 supplementing chapter 20 of Title 2C of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. a. Definitions. As used in this section:

8 (1) "Merchant" means any owner or operator of any store or other
9 retail mercantile establishment, or any agent, servant, employee,
10 lessee, consignee, officer, director, franchisee or independent
11 contractor of such owner or proprietor.

12 (2) "Payment card" means a credit card, charge card, debit card or
13 any other card that is issued to an authorized card user and that allows
14 the user to obtain, purchase, or receive goods, services, money or
15 anything of value from a merchant.

16 (3) "Reencoder" means an electronic device that places encoded
17 information from the magnetic strip or stripe of a payment card onto
18 the magnetic strip or stripe of a different payment card.

19 (4) "Scanning device" means a scanner, skimmer, reader or any
20 other electronic device that is used to access, read, scan, obtain,
21 memorize or store, temporarily or permanently, information encoded
22 on the magnetic strip or stripe of a payment card.

23 b. It shall be a crime of the third degree for a person, with the
24 intent to defraud an authorized user of a payment card, the issuer of
25 the authorized user's payment card or a merchant, to use:

26 (1) a scanning device to access, read, obtain, memorize or store,
27 temporarily or permanently, information encoded on the magnetic strip
28 or stripe of a payment card, without the permission of the authorized
29 user of the payment card; or

30 (2) a reencoder to place information encoded on the magnetic strip
31 or stripe of a payment card onto the magnetic strip or stripe of a
32 different card without the permission of the authorized user of the card
33 from which the information is being reencoded.

34
35 2. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 This bill would prohibit the use of scanning devices or reencoders
41 to access or scan the encoded information on any ATM or debit card,
42 credit card or other payment card, without the permission of the
43 authorized user of the payment card.

44 The bill defines a "scanning device" as any scanner, skimmer, reader
45 or any other electronic device, such as a reencoder, that is used to

1 access, read, scan, obtain, memorize or store, temporarily or
2 permanently, information encoded on the magnetic strip or stripe of a
3 payment card. A "reencoder" is an electronic device that places
4 encoded information from the magnetic strip or stripe of a payment
5 card onto the magnetic strip or stripe of a different payment card.

6 The bill makes it a crime of the third degree for any person, with
7 the intent to defraud an authorized user of a payment card, the issuer
8 of the authorized user's payment card or a merchant, to use a scanning
9 device to access, read, obtain, memorize or store, temporarily or
10 permanently, any information encoded on the magnetic strip or stripe
11 of a payment card without the permission of the authorized user of the
12 payment card. The bill would also make it a crime for a person to use
13 a reencoder to place the information encoded on the magnetic strip
14 onto a different card without the permission of the authorized
15 cardholder, issuer or merchant.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2769

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 13, 2004

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2769.

This bill would prohibit the use of scanning devices or reencoders to access or scan the encoded information on any ATM or debit card, credit card or other payment card, without the permission of the authorized user of the payment card.

The bill defines a "scanning device" as any scanner, skimmer, reader or any other electronic device, such as a reencoder, that is used to access, read, scan, obtain, memorize or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card. A "reencoder" is an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card.

The committee expanded the definition of "reencoder" to include any electronic medium that allows a transaction to occur.

The bill makes it a crime of the third degree for any person, with the intent to defraud an authorized user of a payment card, the issuer of the authorized user's payment card or a merchant, to use a scanning device to access, read, obtain, memorize or store, temporarily or permanently, any information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card. The bill would also make it a crime for a person to use a reencoder to place the information encoded on the magnetic strip onto a different card without the permission of the authorized cardholder, issuer or merchant.

The committee also amended the bill to make it a crime of the fourth degree for a person to knowingly possess with intent to commit a violation of the statute, any device, apparatus, equipment, software, article, material, good, property or supply that is specifically designed or adapted for use as or in a scanning device or reencoder.

COMMITTEE AMENDMENTS

1. Amends subsection a. of section 1 of the bill to expand the definition of "reencoder" to include an electronic device that places encoded information from any electronic medium that allows a

transaction to occur.

2. Adds new subsection c. to section 1 to create the new fourth degree crime possessing, with intent to commit a violation of the statute, any device, apparatus, equipment, software, article, material, good, property or supply that is specifically designed or adapted for use as or in a scanning device or reencoder.

SENATE COMMERCE COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2769

STATE OF NEW JERSEY

DATED: JUNE 16, 2005

The Senate Commerce Committee reports favorably Assembly Bill No. 2769 (1R).

This bill prohibits the use of scanning devices or reencoders to access or scan the encoded information on any ATM or debit card, credit card or other payment card, without the permission of the authorized user of the payment card.

The bill defines a "scanning device" as any scanner, skimmer, reader or any other electronic device, such as a reencoder, that is used to access, read, scan, obtain, memorize or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card. A "reencoder" is an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card or any electronic medium that allows a transaction to occur.

The bill makes it a crime of the third degree for any person, with the intent to defraud an authorized user of a payment card, the issuer of the authorized user's payment card or a merchant, to use a scanning device to access, read, obtain, memorize or store, temporarily or permanently, any information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card; or to use a reencoder to place the information encoded on the magnetic strip onto a different card, or any electronic medium that allows a transaction to occur, without the permission of the authorized cardholder, issuer or merchant.

The bill also makes it a crime of the fourth degree for a person to knowingly possess, with intent to commit a violation of the bill, any device, apparatus, equipment, software, article, material, good, property or supply that is specifically designed or adapted for use as or in a scanning device or reencoder.

SENATE, No. 2617

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 16, 2005

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Senator FRED MADDEN

District 4 (Camden and Gloucester)

Co-Sponsored by:

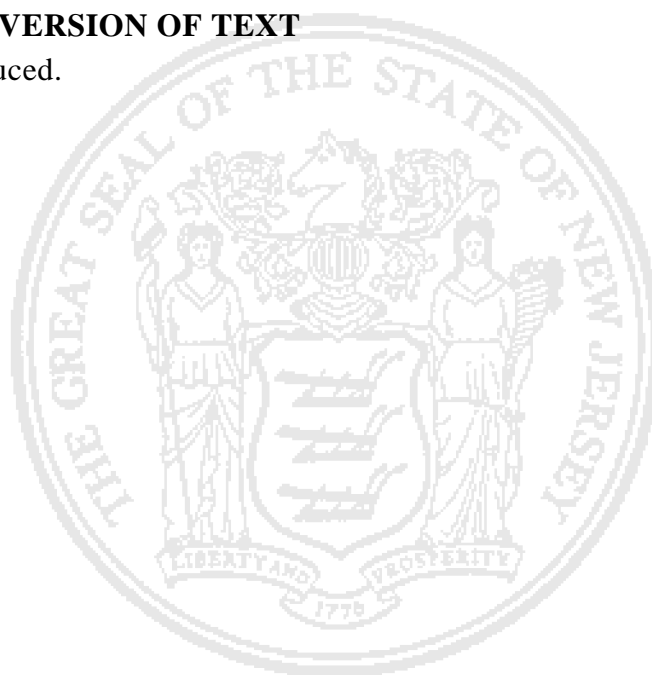
Senators Gill, Coniglio and Sarlo

SYNOPSIS

Makes the unlawful use or possession of a scanning device or reencoder a crime.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/1/2005)

1 AN ACT concerning scanning devices and reencoders and
2 supplementing chapter 20 of Title 2C of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. Definitions. As used in this section:

8 (1) "Merchant" means any owner or operator of any store or other
9 retail mercantile establishment, or any agent, servant, employee,
10 lessee, consignee, officer, director, franchisee or independent
11 contractor of such owner or proprietor.

12 (2) "Payment card" means a credit card, charge card, debit card or
13 any other card that is issued to an authorized card user and that allows
14 the user to obtain, purchase, or receive goods, services, money or
15 anything of value from a merchant.

16 (3) "Reencoder" means an electronic device that places encoded
17 information from the magnetic strip or stripe of a payment card onto
18 the magnetic strip or stripe of a different payment card or any
19 electronic medium that allows a transaction to occur.

20 (4) "Scanning device" means a scanner, skimmer, reader or any
21 other electronic device that is used to access, read, scan, obtain,
22 memorize or store, temporarily or permanently, information encoded
23 on the magnetic strip or stripe of a payment card.

24 b. It shall be a crime of the third degree for a person, with the
25 intent to defraud an authorized user of a payment card, the issuer of
26 the authorized user's payment card or a merchant, to use:

27 (1) a scanning device to access, read, obtain, memorize or store,
28 temporarily or permanently, information encoded on the magnetic strip
29 or stripe of a payment card, without the permission of the authorized
30 user of the payment card; or

31 (2) a reencoder to place information encoded on the magnetic strip
32 or stripe of a payment card onto the magnetic strip or stripe of a
33 different card or any electronic medium that allows a transaction to
34 occur without the permission of the authorized user of the card from
35 which the information is being reencoded.

36 c. It shall be a crime of the fourth degree for a person to knowingly
37 possess with intent to commit a violation of paragraphs (1) or (2) of
38 subsection b. of this section any device, apparatus, equipment,
39 software, article, material, good, property or supply that is specifically
40 designed or adapted for use as or in a scanning device or reencoder.

41
42 2. This act shall take effect immediately.

1 STATEMENT

2

3 This bill prohibits the use of scanning devices or reencoders to
4 access or scan the encoded information on any ATM or debit card,
5 credit card or other payment card, without the permission of the
6 authorized user of the payment card.

7 The bill defines a "scanning device" as any scanner, skimmer, reader
8 or any other electronic device, such as a reencoder, that is used to
9 access, read, scan, obtain, memorize or store, temporarily or
10 permanently, information encoded on the magnetic strip or stripe of a
11 payment card. A "reencoder" is an electronic device that places
12 encoded information from the magnetic strip or stripe of a payment
13 card onto the magnetic strip or stripe of a different payment card or
14 any electronic medium that allows a transaction to occur.

15 The bill makes it a crime of the third degree for any person, with
16 the intent to defraud an authorized user of a payment card, the issuer
17 of the authorized user's payment card or a merchant, to use a scanning
18 device to access, read, obtain, memorize or store, temporarily or
19 permanently, any information encoded on the magnetic strip or stripe
20 of a payment card without the permission of the authorized user of the
21 payment card; or to use a reencoder to place the information encoded
22 on the magnetic strip onto a different card, or any electronic medium
23 that allows a transaction to occur, without the permission of the
24 authorized cardholder, issuer or merchant.

25 The bill also makes it a crime of the fourth degree for a person to
26 knowingly possess, with intent to commit a violation of the bill, any
27 device, apparatus, equipment, software, article, material, good,
28 property or supply that is specifically designed or adapted for use as
29 or in a scanning device or reencoder.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2617

STATE OF NEW JERSEY

DATED: JUNE 16, 2005

The Senate Commerce Committee reports favorably Senate Bill No. 2617.

This bill prohibits the use of scanning devices or reencoders to access or scan the encoded information on any ATM or debit card, credit card or other payment card, without the permission of the authorized user of the payment card.

The bill defines a "scanning device" as any scanner, skimmer, reader or any other electronic device, such as a reencoder, that is used to access, read, scan, obtain, memorize or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card. A "reencoder" is an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card or any electronic medium that allows a transaction to occur.

The bill makes it a crime of the third degree for any person, with the intent to defraud an authorized user of a payment card, the issuer of the authorized user's payment card or a merchant, to use a scanning device to access, read, obtain, memorize or store, temporarily or permanently, any information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card; or to use a reencoder to place the information encoded on the magnetic strip onto a different card, or any electronic medium that allows a transaction to occur, without the permission of the authorized cardholder, issuer or merchant.

The bill also makes it a crime of the fourth degree for a person to knowingly possess, with intent to commit a violation of the bill, any device, apparatus, equipment, software, article, material, good, property or supply that is specifically designed or adapted for use as or in a scanning device or reencoder.

Codey Signs Identity Theft Prevention Into Law

Bills help protect Social Security numbers, "good name" of state residents

(TRENTON) – Acting Governor Richard J. Codey today signed A4001/S1914, A2768 and A2769/S2617, bills that give consumers safeguards against identity theft.

“At the end of the day, New Jersey residents should feel assured that they are working for their families – not shameless impersonators who have targeted their nest egg,” said Codey. “A good name is always worth protecting.”

Codey signed the bills during a public ceremony at the Governor’s Outer Office in the State House. Bill sponsors who joined the Acting Governor included Assembly members Bonnie Watson Coleman (D-Mercer), Reed Gusciora (D-Mercer), Joseph Vas (D-Middlesex) and Senators Shirley K. Turner (D-Mercer), Byron M. Baer (D-Bergen), Joseph F. Vitale (D-Middlesex) and Andrew R. Ciesla (R-Monmouth, Ocean). Other bill sponsors include Assemblymen Joseph Cryan (D-Union), Jeff Van Drew (D-Cape May, Cumberland), John S. Wisniewski (D-Middlesex), Neil M. Cohen (D-Union), Patrick Diegnan Jr. (D-Middlesex), Brian Stack (D-Hudson) and Senators Stephen M. Sweeney (D-Gloucester, Cumberland, Salem), Fred H. Madden (D-Camden, Gloucester) and Walter J. Kavanaugh (R-Somerset).

Bills A4001/S1914 – the “New Jersey Identity Theft Prevention Act” – would provide the following safeguards:

- Allow consumers to request that a reporting agency place a security freeze on their consumer credit report
- Affirm an individual's right to file and receive a copy of a police report concerning suspected identity theft
- Require any company that lawfully collects and maintains computerized records containing consumer’s personal information to notify affected consumers in the event that personal data is compromised
- Limit use of a consumer's Social Security number as an identifier and prohibit public display and usage of the number on printed materials except where required by law
- Require businesses to destroy records containing a customer’s personal information

that is no longer needed

The law will go into effect Jan. 1, 2006.

"The risk of identity theft continues to rise as weaknesses in data reporting and storage are exploited on a daily basis," said Watson Coleman. "Recent media headlines concerning lost information and security breaches affecting millions of consumers clearly illustrate why we need to take a stand and protect consumers against the fastest growing threat to their financial security and quality of life."

"So many people in our country don't know the power of their own Social Security numbers, but in the wrong hands, the economic impact can be extensive and lasting," said Turner. "Identity theft is insidious, invasive, and indiscriminate, striking at the young and old with equal voracity and in some cases causing irreparable damage to one's credit history. However, with greater oversight on how our identifying information is being handled in New Jersey, and the appropriate legal tools to prove a consumer's innocence, we can protect New Jersey's residents from identity theft."

"Particularly in light of the CitiGroup, North Jersey and BJ's incidents, we must provide New Jersey's consumers with the tools they need to protect themselves and the business community with guidelines to follow so they can prevent these devastating financial crimes," said Cryan.

"New incidents of security breaches and lost consumer data are constantly being reported in the media," said Gusciora. "We have an obligation to provide New Jersey residents and businesses with every tool possible to safeguard sensitive personal and credit information from unscrupulous individuals."

"The security of Social Security numbers and credit information is no laughing matter," said Vas. "As technology improves a would-be thief's chances of stealing someone's identity, we should empower consumers and businesses with a new and improved law to help mitigate the situation."

"With the spread of e-commerce and the passage of vulnerable identifying information over unsecured data lines, identity theft has grown from a minor occurrence to a lucrative criminal trade," said Vitale. "New Jersey needs to take every appropriate action to ensure that the innocent are not held culpable for the actions of an imposter. Under these new guidelines, it will be harder for criminals to steal someone's identity, and easier for innocent consumers to protect their good names."

"Identity theft is now the fastest-growing financial crime in our country, with nearly ten million Americans victimized in 2003 alone," said Kim Ricketts, Director of the Division of Consumer Affairs, the agency charged with enforcement of this statute. "The Identity Theft Prevent Act the Governor is signing today is the most comprehensive and easy-to-use identity theft prevention law in the nation, and I applaud Governor Codey for giving consumers the tools they need to protect their financial well-being."

Bill A2768 will expand the state's identity theft laws to include the selling, manufacturing possession or exhibiting of false birth certificates. The new measure will make it a second-degree crime to sell, offer to sell, or possess with the intent of selling a forged birth certificate. Convictions will be punishable by up to 10 years in prison and \$150,000 in fines. The statute for forging a birth certificate would be consistent with punishment for manufacturing a false driver's license or other government documents. The law will go into effect immediately.

Bills A2769/S2617 will protect consumers from having their credit or ATM card information unwittingly taken from them. The new measure will prohibit the unauthorized use of scanning devices or re-encoders to access or scan the encoded information on any ATM, debit, credit or other payment card. The bill would also make it a crime to use a re-encoder to place the information encoded on the magnetic strip onto a different card without permission. A re-encoder is a device that places encoded information from the magnetic strip of a payment card onto the magnetic strip or stripe of a different payment card. The law will go into effect immediately.

"Anyone who gets their hands on a re-encoder can become an identity thief; it could be a gas station attendant or a server at your favorite restaurant," said Sweeney. "By banning re-encoders we are working to help eliminate identity theft while saving consumers millions of dollars in fraudulent debt."

"Consumers deserve to be able to shop without the fear of identity theft," said Madden. "This law will help combat credit card fraud by making it more difficult for thieves to use re-encoders to steal identities, and help give consumers peace of mind while they are shopping."

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