

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

652B0258

## HOUSE BILL NO. 1050

Introduced by: Representatives Bartels, Anderson, Chaffee, Finck, Glanzer, Johns, Koth, Peterson (Kent), and York and Senators White, Cronin, Ewing, Kolbeck, Rusch, and Stalzer

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the use and  
2 possession of scanning devices and reencoders.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-40-12 be amended to read:

5 22-40-12. ~~No~~ A person may use is guilty of a Class 6 felony if the person directly or  
6 indirectly uses a scanning device to access, read, obtain, memorize, or store, temporarily or  
7 permanently, information encoded on the magnetic strip or stripe of a payment card ~~with the~~  
8 ~~intent to defraud. A violation of this section is a Class 6 felony~~ or encoded on a chip embedded  
9 on a payment card without the permission of the authorized user of the payment card, the issuer  
10 of the authorized user's payment card, or a merchant.

11 Section 2. That § 22-40-13 be amended to read:

12 22-40-13. ~~No~~ A person may use is guilty of a Class 6 felony if the person directly or  
13 indirectly uses a reencoder to place information encoded on the magnetic strip or stripe of a  
14 payment card or encoded on a computer chip embedded on a payment card onto the magnetic



1 strip or stripe or computer chip of a different payment card without the permission of the  
2 authorized user of the payment card from which the information is being reencoded ~~and with~~  
3 ~~the intent to defraud. A violation of this section is a Class 6 felony, the issuer of the authorized~~  
4 user's payment card, or a merchant.

5 Section 3. That § 22-40-14 be amended to read:

6 22-40-14. ~~No~~ A person may own or possess is guilty of a Class 6 felony if the person owns  
7 or possesses a scanning device or a reencoder with the intent to use ~~such~~ the scanning device  
8 or reencoder to ~~defraud. A violation of this section is a Class 1 misdemeanor~~ obtain or alter  
9 information encoded or embedded on a payment card without the permission of the authorized  
10 user of the payment card, the issuer of the authorized user's payment card, or a merchant.

11 A person is guilty of a Class 6 felony if the person owns or possesses a scanning device or  
12 reencoder with knowledge that a person other than an authorized user, the issuer of the  
13 authorized user's payment card, or a merchant intends to use the scanning device or reencoder  
14 to obtain information encoded or embedded on a payment card without the permission of the  
15 authorized user, the issuer of the authorized user's payment card, or any merchant.

16 Section 4. That § 22-40-11 be amended to read:

17 22-40-11. Terms used in §§ 22-40-11 to 22-40-14, inclusive, mean:

- 18 (1) "Reencoder," any electronic device that places encoded information from the  
19 magnetic strip or stripe of a payment card or a computer chip embedded in a payment  
20 card onto the magnetic strip or stripe or computer chip of a different payment card;  
21 (2) "Scanning device," any scanner, reader, or any other electronic device that is used to  
22 access, read, scan, obtain, memorize, or store, temporarily or permanently,  
23 information encoded on the magnetic strip or stripe or on a computer chip of a  
24 payment card.