
By: **Delegate Zirkin**
Introduced and read first time: February 4, 2002
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Credit Card Crimes - Evidence of Unauthorized Use**

3 FOR the purpose of allowing the introduction of a certain statement by certain
4 cardholders of credit cards as evidence of unauthorized use in the prosecution of
5 certain credit card crimes; establishing certain requirements and contents of a
6 certain statement by a cardholder; requiring certain notice by the State to a
7 defendant of the State's intent to use a certain statement; providing for the
8 effect of certain notification by a defendant; and generally relating to
9 prosecution of credit card crimes.

10 BY renumbering
11 Article - Criminal Law
12 Section 8-210
13 to be Section 8-211
14 Annotated Code of Maryland
15 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
16 2002)

17 BY repealing and reenacting, without amendments,
18 Article - Criminal Law
19 Section 8-201
20 Annotated Code of Maryland
21 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
22 2002)

23 BY adding to
24 Article - Criminal Law
25 Section 8-210
26 Annotated Code of Maryland
27 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
28 2002)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That Section(s) 8-210 of Article - Criminal Law of the Annotated Code
3 of Maryland (as enacted by Chapter ___ (H.B. 11) of the Acts of the General Assembly
4 of 2002) be renumbered to be Section(s) 8-211.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
6 read as follows:

7 **Article - Criminal Law**

8 8-201.

9 (a) In this subtitle the following words have the meanings indicated.

10 (b) "Cardholder" means the person named on the face of a credit card to whom
11 or for whose benefit the credit card is issued by an issuer.

12 (c) (1) "Credit card" means an instrument or device issued by an issuer for
13 the use of a cardholder in obtaining money, goods, services, or anything of value on
14 credit.

15 (2) "Credit card" includes:

16 (i) a debit card, access card, or other device for use by a cardholder
17 to effect a transfer of funds through an electronic terminal, telephone, or computer;

18 (ii) a magnetic tape that orders or authorizes a financial institution
19 to debit or credit an account; and

20 (iii) a code, account number, or other means of account access that is
21 not encoded or truncated and can be used to:

22 1. obtain money, goods, services, or anything of value; or

23 2. initiate a transfer of funds.

24 (3) "Credit card" does not include a check, draft, or similar paper
25 instrument.

26 (d) "Issuer" means a business organization or financial institution that issues
27 a credit card or the authorized agent of the business organization or financial
28 institution.

29 8-210.

30 (A) THIS SECTION ONLY APPLIES TO A CARDHOLDER WHO DOES NOT RESIDE
31 IN THE STATE AT THE TIME OF TRIAL.

32 (B) IN A PROSECUTION FOR A VIOLATION OF §§ 8-202 THROUGH 8-209 OF THIS
33 SUBTITLE, A STATEMENT BY THE CARDHOLDER THAT THE CREDIT CARD WAS TAKEN
34 FROM THE CARDHOLDER'S POSSESSION, CUSTODY, OR CONTROL WITHOUT THE

1 CONSENT OR KNOWLEDGE OF THE CARDHOLDER MAY BE INTRODUCED AS
2 EVIDENCE THAT THE CREDIT CARD WAS USED WITHOUT THE CONSENT OR
3 AUTHORITY OF THE CARDHOLDER.

4 (C) (1) THE STATEMENT SHALL BE UNDER OATH AND SUBJECT TO THE
5 PENALTIES OF PERJURY BY THE CARDHOLDER.

6 (2) THE STATEMENT MAY INCLUDE:

7 (I) THE MANNER IN WHICH THE CREDIT CARD WAS TAKEN FROM
8 THE CARDHOLDER'S CONTROL OR POSSESSION;

9 (II) THE DATE THAT THE CARDHOLDER DISCOVERED THE LOSS OF
10 POSSESSION OF THE CREDIT CARD; AND

11 (III) A DETAILED DESCRIPTION OF EACH ALLEGED UNAUTHORIZED
12 TRANSACTION.

13 (D) (1) IF THE STATE INTENDS TO OFFER THE STATEMENT WITHOUT THE
14 TESTIMONY OF THE CARDHOLDER, THE STATE SHALL GIVE NOTICE TO THE
15 DEFENDANT OR THE DEFENDANT'S COUNSEL OF ITS INTENTION AND A COPY OF THE
16 STATEMENT AT LEAST 25 DAYS BEFORE TRIAL.

17 (2) IF THE DEFENDANT WISHES THE CARDHOLDER TO BE PRESENT AND
18 TESTIFY, THE DEFENDANT SHALL NOTIFY THE STATE AT LEAST 15 DAYS BEFORE
19 TRIAL. IF THE DEFENDANT GIVES TIMELY NOTICE TO THE STATE UNDER THIS
20 PARAGRAPH, THE STATEMENT IS INADMISSIBLE.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2002.