

SENATE BILL 465

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2002 Regular Session
2lr1849
CF 2lr1955

By: ~~Senator Stone~~ **Senators Stone and Forehand**
Introduced and read first time: January 31, 2002
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 6, 2002

CHAPTER _____

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

1 Article - Criminal Law
2 Section 8-210
3 Annotated Code of Maryland
4 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
5 2002)

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

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

12 **Article - Criminal Law**

13 8-201.

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

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

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

20 (2) "Credit card" includes:

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

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

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

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

28 2. initiate a transfer of funds.

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

31 (d) "Issuer" means a business organization or financial institution that issues
32 a credit card or the authorized agent of the business organization or financial
33 institution.

1 8-210.

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

4 (B) IN A PROSECUTION FOR A VIOLATION OF §§ 8-202 THROUGH 8-209 OF THIS
5 SUBTITLE, A STATEMENT BY THE CARDHOLDER THAT THE CREDIT CARD WAS TAKEN
6 FROM THE CARDHOLDER'S POSSESSION, CUSTODY, OR CONTROL WITHOUT THE
7 CONSENT OR KNOWLEDGE OF THE CARDHOLDER MAY BE INTRODUCED AS
8 EVIDENCE THAT THE CREDIT CARD WAS USED WITHOUT THE CONSENT OR
9 AUTHORITY OF THE CARDHOLDER.

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

12 (2) THE STATEMENT MAY INCLUDE:

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

15 (II) THE DATE THAT THE CARDHOLDER DISCOVERED THE LOSS OF
16 POSSESSION OF THE CREDIT CARD; AND

17 (III) A DETAILED DESCRIPTION OF EACH ALLEGED UNAUTHORIZED
18 TRANSACTION.

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

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

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