

HOUSE BILL 588

E1

11r1251

By: **Delegates George, Anderson, Beidle, Conaway, Dumais, Dwyer, Frush, Gaines, Glass, Haddaway–Riccio, Hogan, Kipke, Love, McDermott, O’Donnell, Parrott, Smigiel, Sophocleus, Vitale, Waldstreicher, and Walker**

Introduced and read first time: February 9, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Identity Theft – Use of Radio Frequency Identification**
3 **Reader**

4 FOR the purpose of prohibiting the use of a certain device to read personal identifying
5 information from a radio frequency identification chip of a radio frequency
6 identification document or credit card to commit identify theft; altering certain
7 definitions; defining certain terms; and generally relating to the use of a radio
8 frequency identification reader in identify theft.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Law
11 Section 8–301(a) and (d)
12 Annotated Code of Maryland
13 (2002 Volume and 2010 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Criminal Law
16 Section 8–301(b), (c), (e), (f), and (g)
17 Annotated Code of Maryland
18 (2002 Volume and 2010 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Criminal Law**

22 8–301.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) In this section the following words have the meanings indicated.

2 (2) "Payment device number" has the meaning stated in § 8-213 of
3 this title.

4 (3) "Personal identifying information" includes a name, address,
5 telephone number, driver's license number, Social Security number, place of
6 employment, employee identification number, mother's maiden name, bank or other
7 financial institution account number, date of birth, personal identification number,
8 credit card number, or other payment device number.

9 (4) **"RADIO FREQUENCY IDENTIFICATION" OR "RFID" MEANS**
10 **THE USE OF ELECTROMAGNETIC RADIATING WAVES OR REACTIVE FIELD**
11 **COUPLING IN THE RADIO FREQUENCY PORTION OF THE SPECTRUM TO**
12 **COMMUNICATE TO OR FROM AN IDENTIFICATION DOCUMENT OR A CREDIT CARD**
13 **THROUGH A VARIETY OF MODULATION AND ENCODING SCHEMES.**

14 (5) (I) **"RADIO FREQUENCY IDENTIFICATION DOCUMENT"**
15 **MEANS ANY DOCUMENT WITH A RFID CHIP:**

16 1. THAT CONTAINS PERSONAL IDENTIFYING
17 INFORMATION;

18 2. THAT IS ISSUED TO A PERSON; AND

19 3. WHICH THAT PERSON, AND ONLY THAT PERSON,
20 USES ALONE OR IN CONJUNCTION WITH ANY OTHER INFORMATION FOR THE
21 PURPOSE OF ESTABLISHING THE PERSON'S IDENTITY.

22 (II) **"RADIO FREQUENCY IDENTIFICATION DOCUMENT"**
23 **INCLUDES A DRIVER'S LICENSE, AN IDENTIFICATION CARD FOR AN EMPLOYEE**
24 **OR CONTRACTOR, AN IDENTIFICATION CARD ISSUED BY AN EDUCATIONAL**
25 **INSTITUTION, A HEALTH INSURANCE OR BENEFIT CARD, OR A BENEFIT CARD**
26 **ISSUED FOR A GOVERNMENT SUPPORTED AID PROGRAM.**

27 [(4)] (6) "Re-encoder" means an electronic device that places encoded
28 personal identifying information or a payment device number from the magnetic strip
29 or stripe of a credit card onto the magnetic strip or stripe of a different credit card or
30 any electronic medium that allows such a transaction to occur.

31 [(5)] (7) "Skimming device" means a scanner, skimmer, reader, or
32 any other electronic OR ELECTROMAGNETIC device that is used to access, read, scan,
33 obtain, memorize, or store, temporarily or permanently, personal identifying
34 information or a payment device number encoded:

1 (I) on the magnetic strip or stripe of a credit card; OR

2 (II) IN THE RFID CHIP OF A RADIO FREQUENCY
3 IDENTIFICATION DOCUMENT OR CREDIT CARD.

4 (b) A person may not knowingly, willfully, and with fraudulent intent
5 possess, obtain, or help another to possess or obtain any personal identifying
6 information of an individual, without the consent of the individual, in order to use,
7 sell, or transfer the information to get a benefit, credit, good, service, or other thing of
8 value in the name of the individual.

9 (c) A person may not knowingly and willfully assume the identity of another:

10 (1) to avoid identification, apprehension, or prosecution for a crime; or

11 (2) with fraudulent intent to:

12 (i) get a benefit, credit, good, service, or other thing of value; or

13 (ii) avoid the payment of debt or other legal obligation.

14 (d) A person may not knowingly, willfully, and with fraudulent intent to
15 obtain a benefit, credit, good, service, or other thing of value, use:

16 (1) a re-encoder to place information encoded on the magnetic strip or
17 stripe of a credit card onto the magnetic strip or stripe of a different credit card or use
18 any other electronic medium that allows such a transaction to occur without the
19 consent of the individual authorized to use the credit card from which the personal
20 identifying information or payment device number is being re-encoded; or

21 (2) a skimming device to access, read, scan, obtain, memorize, or store
22 personal identifying information or a payment device number on the magnetic strip or
23 stripe of a credit card **OR IN THE RFID CHIP OF A RADIO FREQUENCY**
24 **IDENTIFICATION DOCUMENT OR CREDIT CARD** without the consent of the
25 individual authorized to use the credit card.

26 (e) A person may not knowingly, willfully, and with fraudulent intent
27 possess, obtain, or help another possess or obtain a re-encoder device or a skimming
28 device for the unauthorized use, sale, or transfer of personal identifying information or
29 a payment device number.

30 (f) A person may not knowingly and willfully claim to represent another
31 person without the knowledge and consent of that person, with the intent to solicit,
32 request, or take any other action to otherwise induce another person to provide
33 personal identifying information or a payment device number.

1 (g) (1) A person who violates this section where the benefit, credit, good,
2 service, or other thing of value that is the subject of subsection (b), (c), or (d) of this
3 section has a value of \$500 or greater is guilty of a felony and on conviction is subject
4 to imprisonment not exceeding 15 years or a fine not exceeding \$25,000 or both.

5 (2) A person who violates this section where the benefit, credit, good,
6 service, or other thing of value that is the subject of subsection (b), (c), or (d) of this
7 section has a value of less than \$500 is guilty of a misdemeanor and on conviction is
8 subject to imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or
9 both.

10 (3) A person who violates this section under circumstances that
11 reasonably indicate that the person's intent was to manufacture, distribute, or
12 dispense another individual's personal identifying information without that
13 individual's consent is guilty of a felony and on conviction is subject to imprisonment
14 not exceeding 15 years or a fine not exceeding \$25,000 or both.

15 (4) A person who violates subsection (c)(1), (e), or (f) of this section is
16 guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18
17 months or a fine not exceeding \$5,000 or both.

18 (5) When the violation of this section is pursuant to one scheme or
19 continuing course of conduct, whether from the same or several sources, the conduct
20 may be considered as one violation and the value of the benefit, credit, good, service, or
21 other thing of value may be aggregated in determining whether the violation is a
22 felony or misdemeanor.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2011.