



State of Tennessee

PUBLIC CHAPTER NO. 993

SENATE BILL NO. 1717

By Briggs, Massey, Bowling, Swann, Bailey, Haile, Jackson, Watson, Yager

Substituted for: House Bill No. 1722

By Zachary, Staples, Sherrell, Fitzhugh, Daniel

AN ACT to amend Tennessee Code Annotated, Section 39-14-113, relative to the Organized Retail Crime Prevention Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-14-113(c)(1), is amended by deleting the language "Works with one (1) or more persons" and substituting instead the language "Acts in concert with one (1) or more people".

SECTION 2. Tennessee Code Annotated, Section 39-14-113(d), is amended by deleting the subsection and substituting instead the following language:

(d)(1) A violation of subsection (c) is punished as theft pursuant to § 39-14-105.

(2) A violation of subsection (c) is punished one (1) classification higher than provided in § 39-14-105 if the defendant exercised organizational, supervisory, financial, or management authority over the activity of one (1) or more other persons in furtherance of a violation of this section.

SECTION 3. Tennessee Code Annotated, Section 39-14-113, is amended by deleting subsection (f) and substituting instead the following language:

(f)(1) Any sale or purchase of stored value cards by persons or merchants, other than the issuer or the issuer's authorized agent, including any transaction that occurs in this state or with a person in the state who transacts online, requires that the appropriate information contained in this subsection be recorded and a copy of the record shall be maintained for at least three (3) years. Regardless of the method by which the transaction is conducted, the merchant shall record the following information for each transaction:

(A) The time, date, and place of the transaction;

(B) A complete and accurate description of the stored value card sold or purchased, including, if available, the name of the original issuer, the face value of the stored value card when sold or purchased, the acquired price of the stored value card, and the stored value card serial number;

(C) Pin numbers shall be provided for specific individuals upon the request of law enforcement; and

(D) A signed statement or digital affirmation by the seller of the stored value card, if applicable, verifying that the seller is the rightful owner of the stored value card or is authorized to sell, consign, or trade the stored value card.

(2) If the transaction is completed in person or by any method other than in a kiosk or online, the record shall include:

(A) The information required in subdivision (f)(1);

(B) A copy, digital swipe, or scan of a valid government issued identification card, such as a driver license, state identification card, or military identification card, of the person who purchased the stored value card, or the person to whom stored value card was sold;

(C) A thumbprint of the person who sold the stored value card; and

(D) A description of the person who sold the stored value card including the person's full name, current residential address, phone number, height, weight, date of birth, or other identifying marks.

(3) If the transaction is completed at a kiosk, the record shall include:

(A) The information required in subdivision (f)(1);

(B) A digital swipe or scan of a valid government issued identification card, such as a driver license, state identification card, or military identification card, of the person who purchased the stored value card, or sold the stored value card; and

(C) A thumbprint of the person who sold the stored value card.

(4) If the transaction is completed online the record shall include:

(A) The information required by subdivision (f)(1);

(B) A verified email address;

(C) The IP address or digital device identification used to access the website or app of the seller;

(D) Data collected about the person who purchased the stored value card, or sold the stored value card, including name and mailing address used to remit payment; and

(E) A token identifier for a validated credit or debit card and billing zip code.

(5) Local law enforcement agencies shall notify merchants known to sell stored value cards of the recording and reporting requirements required by subdivisions (f)(1)-(f)(4). The notification to merchants shall be in writing and shall state the law enforcement agency's policy regarding how the information is to be reported in the applicable jurisdiction and certify that any data collected from the merchant will be stored in a secure and confidential manner. All records shall be delivered to the appropriate law enforcement agency or its designated reporting database in an electronic or other report format approved by that same agency within twenty-four (24) hours from the date of the transaction. The information shall be stored on a law enforcement owned, operated, and housed server. Any gift card database software should be free for state law enforcement agencies; state, county, and city government agencies; and for the merchants that are reporting.

(6)(A) A merchant commits a Class A misdemeanor who knowingly fails to follow the reporting and recording requirements pursuant to this subsection (f). However, for a merchant to be charged or convicted under this subsection (f), the law enforcement agency must have first notified the merchant in writing of the reporting obligations in that jurisdiction. If the violation is committed by the owner, stockholder, or managing partner of a business selling a stored value card, then the business license may be suspended or revoked at the discretion of the city or county clerk.

(B) Any person who knowingly provides false information in response to the reporting requirements of this section commits a Class A misdemeanor.

(C) Any fines derived from violations of this subsection (f) shall be earmarked for law enforcement purposes if the law enforcement entity shows proof of notification of reporting requirements signed by the person or agent of the entity in violation.

(7) Notwithstanding this section to the contrary, the comptroller of the treasury is authorized to request and receive from a law enforcement agency any data or information received by the law enforcement agency pursuant to this subsection (f).

SECTION 4. Tennessee Code Annotated, Section 39-14-113, is amended by adding the following language as a new subsection:

(g) All information gathered pursuant to subsection (f) shall remain confidential. If a local law enforcement agency utilizes a third party, including, but not limited to, a third-party database or software company, to keep records or to analyze stored value card transactions, the third party must agree to keep all information confidential and only share the information with law enforcement agencies, the comptroller of the treasury, or the original issuer of the stored value card.

SECTION 5. This act shall take effect July 1, 2018, the public welfare requiring it.

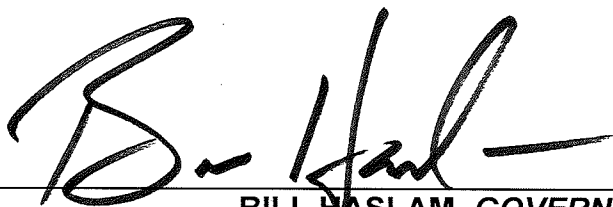
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PASSED: April 24, 2018


RANDY McNALLY
SPEAKER OF THE SENATE


BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 21st day of May 2018


BILL HASLAM, GOVERNOR