

CHAPTER 27**(HB 7)**

AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 434.550 TO 434.730 IS CREATED TO READ AS FOLLOWS:

- (1) *No person shall use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.*
- (2) *No person shall use a reencoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.*

Section 2. KRS 434.560 is amended to read as follows:

As used in KRS 434.550 to 434.730, unless the context otherwise requires:

- (1) "Automated banking device" means any machine which when properly activated by a credit card, debit card or personal identification code will perform any of the following services:
 - (a) Dispense money as a debit to the cardholder's savings or checking account; or
 - (b) Print the cardholder's savings or checking account balances on a statement; or
 - (c) Transfer funds between a cardholder's savings and checking account; or
 - (d) Accept payments on a cardholder's loan; or
 - (e) Dispense cash advances on an open end credit or a revolving charge agreement; or
 - (f) Accept deposits to a customer's savings or checking account; or
 - (g) Receive inquiries of verification of checks and dispense information which verifies that funds are available to cover said checks; or
 - (h) Cause money to be transferred electronically from a cardholder's account to an account held by any business, firm, retail merchant, corporation, or any other organization;~~;~~
- (2) "Cardholder" means the person or organization named on the face of a credit or debit card to whom or for whose benefit the credit or debit card is issued by an issuer;~~;~~
- (3) "Credit card" means any instrument or device, whether known as a credit card, credit plate, credit number or by any other name, issued by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit;~~;~~
- (4) "Debit card" means any instrument or device, known by any name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services and anything else of value, payment of which is made against funds previously deposited by cardholder;~~;~~
- (5) "E.F.T. system" means an electronic funds transfer system whereby funds are transferred electronically from a cardholder's account to any other account;~~;~~

- (6) "Expired credit card" means a credit card which is no longer valid because the term shown on it has expired;~~[-]~~
- (7) "Expired debit card" means a debit card which is no longer valid because the term shown on it has expired;~~[-]~~
- (8) "Issuer" means the business organization or financial institution which issues a credit or debit card or its duly authorized agent;~~[-]~~
- (9) ***"Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator. "Merchant" also means a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything else of value from the person;***
- (10) "Participating party" means a business organization or financial institution, or any duly authorized agent of such business organization or financial institution, which is obligated by contract to acquire from a person, business organization or financial institution providing money, goods, services or anything else of value, a sales slip, sales draft or other instrument evidencing a credit or debit card transaction and from whom the issuer is obligated by contract to acquire or participate in such sales slip, sales draft or other instrument;~~[-]~~
- (11) ***"Payment card" means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant;***
- (12)~~(10)~~ "Presentation or presents" as used herein shall be construed to define those actions taken by a cardholder or any person to introduce a credit or debit card into an automated banking device or merely displaying or showing a credit or debit card to the issuer, a person or organization providing money, goods, services, or anything else of value, or any other entity with intent to defraud;~~[-]~~
- (13)~~(11)~~ "Receives" or "receiving" means acquiring possession or control of a credit or debit card;~~[-]~~
- (14)~~(12)~~ ***"Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card;***
- (15) "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer;~~[-]~~
- (16)~~(13)~~ "Revoked debit card" means a debit card which is no longer valid because permission to use it has been suspended or terminated by the issuer; ***and***
- (17) ***"Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.***

Section 3. KRS 434.730 is amended to read as follows:

- (1) A person who has violated KRS 434.590 shall be guilty of a Class A misdemeanor.
- (2) A person who has violated KRS 434.600 shall be guilty of a Class D felony.

- (3) *A person who has violated the provisions of subsection (1) of Section 1 of this Act shall be guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.*
- (4) *A person who has violated the provisions of subsection (2) of Section 1 of this Act shall be guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.*