

BUSINESS AND COMMERCE CODE

TITLE 12. RIGHTS AND DUTIES OF CONSUMERS AND MERCHANTS

CHAPTER 607. PAYMENT CARD SKIMMERS ON MOTOR FUEL METERING DEVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 607.001. DEFINITIONS. In this chapter:

(1) "Center" means the financial crimes intelligence center established under Chapter 2312, Occupations Code.

(1-a) "Commission" means the Texas Commission of Licensing and Regulation.

(1-b) "Credit card issuer" has the meaning assigned by Section 505.001.

(2) "Department" means the Texas Department of Licensing and Regulation.

(2-a) "Executive director" means the executive director of the department.

(3) "Financial institution" has the meaning assigned by Section 277.001, Finance Code.

(3-a) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(4) "Merchant" means a person whose business includes the sale of motor fuel through motor fuel metering devices to retail customers.

(5) "Motor fuel" and "motor fuel metering device" have the meanings assigned by Section 2310.001, Occupations Code.

(5-a) "Motor fuel unattended payment terminal" means a point-of-sale terminal or kiosk that is operated by a customer to activate or complete a transaction at a motor fuel metering device through the use of a payment card or a payment by other electronic means.

(6) "Payment card" has the meaning assigned by Section 522.001.

(6-a) "Payment card network" means an entity that directly, or through a licensed member, processor, or agent, provides the proprietary services, infrastructure, and software that route information and data to conduct debit card or credit card

transaction authorization, clearance, and settlement, and that an entity uses in order to accept as a form of payment a brand of debit card, credit card, or other device that may be used to carry out debit or credit transactions.

(7) "Service company" and "service technician" have the meanings assigned by Section [2310.151](#), Occupations Code.

(8) "Skimmer" means a wire or electronic device that is capable of unlawfully intercepting electronic communications or data to perpetrate fraud.

(9) Repealed by Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 12(1), eff. September 1, 2021.

Added by Acts 2019, 86th Leg., R.S., Ch. 863 (H.B. [2945](#)), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 12(1), eff. September 1, 2021.

Sec. 607.002. ADMINISTRATION AND ENFORCEMENT OF CHAPTER.

(a) The department shall administer and enforce this chapter.

(b) The commission or the executive director may enforce this chapter, a rule adopted under this chapter, or an order of the commission or executive director as provided by Subchapters F and G, Chapter [51](#), Occupations Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 3, eff. September 1, 2021.

Sec. 607.003. FUNDING. The department may solicit and accept gifts, grants, and other donations for purposes of administering this chapter, except that the department may not solicit or accept a gift, grant, or other donation from a license holder as defined by Section [2310.151](#), Occupations Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 3, eff. September 1, 2021.

Sec. 607.004. RULES. The commission shall adopt rules for

administering this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 3, eff. September 1, 2021.

SUBCHAPTER B. DUTIES RELATED TO USE OF CERTAIN UNATTENDED PAYMENT
TERMINALS

Sec. 607.053. NOTICE OF DISCOVERY OF SKIMMER REQUIRED. (a) If a service technician discovers a skimmer in or on a motor fuel unattended payment terminal or motor fuel metering device, the service technician or service company that employs the technician shall notify the department and the merchant of the skimmer in the manner prescribed by commission rule.

(b) If a merchant discovers a skimmer in or on a motor fuel unattended payment terminal or motor fuel metering device or is notified of the presence of a skimmer, the merchant shall, in the manner prescribed by commission rule:

(1) disable, or cause to be disabled, the motor fuel metering device on which the skimmer was discovered;

(1-a) notify a law enforcement agency and the department that a skimmer has been detected; and

(2) take appropriate measures to protect the motor fuel metering device from being tampered with until the department or law enforcement agency arrives and the skimmer is removed.

Added by Acts 2019, 86th Leg., R.S., Ch. 863 (H.B. [2945](#)), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 4, eff. September 1, 2021.

Sec. 607.054. REPORT TO DEPARTMENT. (a) The department may accept a report of a suspected skimmer from any interested person, including:

- (1) a law enforcement agency;
- (2) a financial institution;
- (3) a credit card or debit card issuer;
- (4) a service technician or service company;

(5) a member of the public; and

(6) a payment card network.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 12(4), eff. September 1, 2021.

Added by Acts 2019, 86th Leg., R.S., Ch. 863 (H.B. [2945](#)), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 5, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 12(4), eff. September 1, 2021.

Sec. 607.055. INVESTIGATION OF SKIMMER REPORT. (a) On receipt of a report under Section [607.053](#) or [607.054](#), the department may conduct an inspection for the presence of suspected skimmers.

(b) The department shall coordinate with law enforcement agencies in conducting an investigation of the report.

(c) The department may inspect, directly or in coordination with a law enforcement agency, the motor fuel metering device that is the subject of the report and any other motor fuel metering device located at the same place of business.

(d) A merchant shall cooperate with the department or law enforcement agency during an investigation of a skimmer discovered or reported at the merchant's place of business and permit the inspection and alteration of motor fuel metering devices at the place of business as necessary.

Added by Acts 2019, 86th Leg., R.S., Ch. 863 (H.B. [2945](#)), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 6, eff. September 1, 2021.

Sec. 607.056. CONFIDENTIALITY. (a) Except as otherwise provided by this section, information is confidential and not subject to disclosure under Chapter [552](#), Government Code, if the information is:

(1) from a report received by the department under Section [607.053](#) or [607.054](#); or

(2) prepared or compiled by the department in connection with the report or an investigation conducted under this subchapter.

(b) Information described by Subsection (a) may be disclosed to:

(1) an institution of higher education;

(2) a law enforcement agency;

(3) the center;

(4) a credit card issuer, a debit card issuer, a financial institution that is not a credit card issuer, or a payment card network that may be impacted by the use of a skimmer on a motor fuel unattended payment terminal or motor fuel metering device;

(5) another person if the disclosure of the information is permitted or required by other law or court order;

(6) a trade association representing a financial institution; or

(7) a department contractor or other agent.

(c) The disclosure of information under Subsection (b) is not a voluntary disclosure for purposes of Section [552.007](#), Government Code.

(d) On the dismissal or final resolution of a report by the department, information described by Subsection (a) is subject to disclosure under Chapter [552](#), Government Code.

(e) Notwithstanding Subsection (a), a law enforcement agency or the center may disclose to the public information made confidential by that subsection if the law enforcement agency or the chief intelligence coordinator for the center determines that the disclosure of the information furthers a law enforcement purpose, except that a law enforcement agency or the center may not disclose to the public the identity of a person that submits a report of a suspected skimmer to the department under Section [607.053](#) or [607.054](#).

Added by Acts 2019, 86th Leg., R.S., Ch. 863 (H.B. [2945](#)), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 7, eff. September 1, 2021.

SUBCHAPTER C. ENFORCEMENT

Sec. 607.1021. CIVIL PENALTY. (a) A person who violates this chapter or a rule adopted under this chapter is liable to the state for a civil penalty.

(b) The attorney general or the executive director may bring an action to collect a penalty under this section.

(c) The provisions of Section [51.352](#), Occupations Code, relating to an action to collect and the amount of a civil penalty under that section apply to an action to collect and the amount of a civil penalty under this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 8, eff. September 1, 2021.

Sec. 607.103. OFFENSES; PENALTIES. (a) A person commits an offense if the person refuses to allow an inspection of a motor fuel metering device at the merchant's place of business in violation of Section [607.055](#). An offense under this subsection is a Class C misdemeanor.

(b) A person commits an offense if the person negligently or recklessly disposes of a skimmer that was installed on a motor fuel unattended payment terminal or motor fuel metering device by another person. An offense under this subsection is a Class B misdemeanor.

(c) A person commits an offense if, knowing that an investigation is ongoing or that a criminal proceeding has been commenced and is pending, the person disposes of a skimmer that was installed on a motor fuel unattended payment terminal or motor fuel metering device by another person. An offense under this subsection is a felony of the third degree.

Added by Acts 2019, 86th Leg., R.S., Ch. 863 (H.B. [2945](#)), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 336 (H.B. [2106](#)), Sec. 9, eff.

September 1, 2021.