

BUSINESS AND COMMERCE CODE

TITLE 12. RIGHTS AND DUTIES OF CONSUMERS AND MERCHANTS

CHAPTER 607. PAYMENT CARD SKIMMERS ON MOTOR FUEL DISPENSERS

SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. [2106](#) and H.B. [3607](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.001. DEFINITIONS. In this chapter:

(1) "Center" means the payment fraud fusion center established under Chapter [424](#), Government Code.

(2) "Department" means the state agency that is the licensing authority for service companies and service technicians.

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

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

(5) "Motor fuel dispenser" means a machine that is used to pump gasoline, diesel, biofuels, or other types of fuels into motor vehicles.

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

(7) "Service company" and "service technician" have the meanings assigned by Section [13.451](#), Agriculture Code.

(8) "Skimmer" means a wire or electronic device that is capable of unlawfully intercepting electronic communications or data to perpetrate fraud. The term includes a re-encoder and scanning device, as those terms are defined by Section [522.001](#).

(9) "Unattended payment terminal" means a point-of-sale terminal or kiosk that is operated by a customer to activate or complete a transaction through the use of a payment card or a payment by other electronic means.

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

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

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. [2106](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.051. MERCHANT DUTIES REGARDING UNATTENDED PAYMENT TERMINALS ON MOTOR FUEL DISPENSERS. A merchant that has an unattended payment terminal on a motor fuel dispenser at the merchant's place of business shall implement procedures in accordance with the rules adopted by the attorney general under Section [607.052](#) to:

(1) prevent the installation of a skimmer on the payment terminal;

(2) find and remove a skimmer placed on the payment terminal; and

(3) report the discovery of a skimmer to the department.

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

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. [2106](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.052. RULES. (a) The attorney general by rule shall establish reasonable policies and procedures that identify best practices for merchants to use to comply with Section [607.051](#).

(b) In adopting rules under Subsection (a), the attorney general must consider:

(1) emerging technology;

(2) compliance costs to merchants; and

(3) any impact the policies and procedures may have on consumers.

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

eff. September 1, 2019.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. [2106](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.053. DISCOVERY OF SKIMMER. If a service technician discovers a skimmer on the unattended payment terminal of a motor fuel dispenser, the service technician or service company that employs the technician shall immediately notify the merchant of the skimmer. If a merchant discovers the skimmer or is notified of the skimmer by a service technician or other person, the merchant shall:

(1) immediately disable, or cause to be disabled, the motor fuel dispenser on which the skimmer was discovered and notify a law enforcement agency that a skimmer has been detected;

(2) take appropriate measures to protect from tampering with the motor fuel dispenser until the law enforcement agency arrives; and

(3) not later than 24 hours after the discovery of the skimmer or a report of the discovery of a skimmer is made to the merchant, report the discovery to the department.

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

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. [2106](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.054. REPORT TO DEPARTMENT. (a) In this section, "interested person" includes:

(1) a law enforcement agency;

(2) a financial institution;

(3) a credit card issuer as defined by Section [505.001](#);

(4) a service technician or service company;

(5) a member of the public; or

(6) any other interested person.

(b) An interested person may submit a report of the discovery of a skimmer on an unattended payment terminal of a motor fuel dispenser at a merchant's place of business to the department. Added by Acts 2019, 86th Leg., R.S., Ch. 863 (H.B. 2945), Sec. 1, eff. September 1, 2019.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. 2106, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.055. INVESTIGATION OF SKIMMER REPORT. (a) On receipt of a report under Section 607.053 or 607.054, the department shall immediately notify the center and share the report with the center.

(b) The department and the center 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 dispenser that is the subject of the report.

(d) A merchant shall cooperate with the department or law enforcement agency during an investigation of a skimmer discovered at the merchant's place of business and permit the department or agency to inspect and alter the motor fuel dispenser that is the subject of the report as necessary.

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

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. 2106, 87th Legislature, Regular Session, for amendments affecting the following section.

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) the attorney general;

(2) a law enforcement agency;

(3) the center;

(4) a financial institution that may be impacted by the use of a skimmer on the unattended payment terminal of a motor fuel dispenser; or

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

(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 or investigation by the department, information described by Subsection (a) is subject to disclosure under Chapter [552](#), Government Code.

(e) Notwithstanding Subsection (a), the attorney general may disclose to the public information made confidential by that subsection if the attorney general determines that the disclosure of the information furthers a law enforcement purpose.

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

SUBCHAPTER C. ENFORCEMENT

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. [2106](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.101. CORRECTIVE ACTION. (a) If the attorney general has reason to believe that a merchant who, after an investigation conducted by the department or one or more law

enforcement agencies, has at the merchant's place of business an unattended payment terminal of a motor fuel dispenser on which a skimmer was installed and who is in violation of a rule adopted by the attorney general under Section 607.052, the attorney general shall notify the merchant of the violation.

(b) The attorney general may order the merchant to take corrective action as necessary, including the implementation of best practices and the training of employees to detect skimmers. Added by Acts 2019, 86th Leg., R.S., Ch. 863 (H.B. 2945), Sec. 1, eff. September 1, 2019.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. 2106, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.102. CIVIL PENALTIES. (a) A merchant who wilfully violates a rule adopted by the attorney general under Section 607.052 is liable to this state for a civil penalty in an amount not to exceed \$5,000.

(b) A merchant who negligently fails to make a report within the period prescribed by Section 607.053, or who has had at least three reports made under that section within a 24-month period as a result of the merchant failing to comply with Subchapter B, is liable to this state for a civil penalty of at least \$1,000 but not more than \$5,000 for each violation.

(c) The attorney general may bring an action to recover a civil penalty imposed under this section. Added by Acts 2019, 86th Leg., R.S., Ch. 863 (H.B. 2945), Sec. 1, eff. September 1, 2019.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. 2106, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.103. OFFENSES; PENALTIES. (a) A person commits an offense if the person refuses to allow an inspection of a motor fuel dispenser 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 the unattended payment terminal of a motor fuel dispenser 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 the unattended payment terminal of a motor fuel dispenser 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.