

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

*As Engrossed: H3/21/11*

# A Bill

HOUSE BILL 1920

5 By: Representative Johnston  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE OFFENSES OF FORGERY AND  
9 FRAUDULENT USE OF A CREDIT OR DEBIT CARD TO INCLUDE  
10 ELECTRONIC CHECKS; AND FOR OTHER PURPOSES.  
11

## Subtitle

12  
13  
14 TO AMEND THE OFFENSES OF FORGERY AND  
15 FRAUDULENT USE OF A CREDIT OR DEBIT CARD  
16 TO INCLUDE ELECTRONIC CHECKS.  
17

18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Arkansas Code § 5-37-101 is amended to read as follows:  
22 5-37-101. Definitions.

23 As used in this chapter:

24 (1) "Coin machine" means a coin box, turnstile, vending machine,  
25 receptacle, or other mechanical or electronic device designed to receive a  
26 coin or bill of a certain denomination or token made for that purpose, and in  
27 return for the insertion or deposit of the coin, bill, or token, to offer, to  
28 provide, to assist in providing, or to permit the acquisition of property or  
29 public or private service;

30 (2) "Credit card" means any instrument or device issued with or  
31 without fee by an issuer for use in obtaining money, goods, services, or  
32 anything else of value on credit;

33 (3)(A) "Deception" means:

34 (i) Creating or reinforcing a false impression, including  
35 a false impression of fact, law, value, or intention or other state of mind  
36 that the actor does not believe to be true;



1 (ii) Preventing another person from acquiring information  
2 that would affect his or her judgment of a transaction;

3 (iii) Failing to correct a false impression that the actor  
4 knows to be false and that the actor created or reinforced or that the actor  
5 knows to be influencing another person to whom the actor stands in a  
6 fiduciary or confidential relationship; or

7 (iv) Failing to disclose a lien, adverse claim, or other  
8 legal impediment to the enjoyment of property that the actor transfers or  
9 encumbers in consideration for the property or service obtained or in order  
10 to continue to deprive another person of that other person's property,  
11 whether the impediment is or is not valid or is or is not a matter of  
12 official record; or

13 (v) Employing any other scheme to defraud.

14 (B) As to a person's intention to perform a promise, "deception"  
15 shall not be inferred solely from the fact that the person did not  
16 subsequently perform the promise.

17 (C) "Deception" does not include:

18 (i) Falsity as to a matter having no pecuniary  
19 significance; or

20 (ii) Puffing by a statement unlikely to deceive an  
21 ordinary person in the group addressed;

22 (4) "Electronic check" means a form of payment made by using the  
23 Internet, a telephone, or other electronic means that is designed to perform  
24 the same function as a conventional paper check;

25 ~~(5)~~(6) "Enterprise" means any entity of one (1) or more persons,  
26 corporate or otherwise, public or private, engaged in business, commercial,  
27 professional, industrial, charitable, social, political, or governmental  
28 activity;

29 ~~(5)~~(6) "Financial institution" means any organization or enterprise  
30 held out to the public as a place of deposit of funds or medium of savings;

31 ~~(6)(A)~~(7)(A) "Slug" means an object that by virtue of its size, shape,  
32 or any other quality is capable of being inserted, deposited, or otherwise  
33 used in a coin machine as a substitute for a genuine coin, bill, or token.

34 (B) The value of a slug is deemed to be the value of the coin,  
35 bill, or token for which it is capable of being substituted;

36 ~~(7)~~(8) "Utter" means to transfer, pass, or deliver or cause to be

1 transferred, passed, or delivered to another person any written instrument,  
2 or to attempt to do so;

3 ~~(8)(A)~~(9)(A) "Value" means:

4 (i) The market value of the property or service at the  
5 time and place of the offense;

6 (ii) If the market value of the property cannot be  
7 ascertained, the cost of replacing the property within a reasonable time  
8 after the offense; or

9 (iii) In the case of a written instrument, other than a  
10 written instrument having a readily ascertainable market value:

11 (a) The amount due and collectible at maturity less  
12 any part that has been satisfied if the written instrument constitutes  
13 evidence of a debt; or

14 (b) The greatest amount of economic loss that the  
15 owner might reasonably suffer by virtue of the loss of the written instrument  
16 if the written instrument is other than evidence of a debt.

17 (B) If the actor gave consideration for or had a legal interest  
18 in the property or service, the amount of the consideration or the value of  
19 the interest shall be deducted from the value of the property or service to  
20 determine value; and

21 ~~(9)(A)~~(10)(A) "Written instrument" means any paper, document, or other  
22 material containing written or printed matter or its equivalent.

23 (B) "Written instrument" includes any money, token, stamp, seal,  
24 badge, trademark, retail sales receipt, universal product code label or other  
25 evidence or symbol of value, right, privilege, or identification that is  
26 capable of being used to the advantage or disadvantage of any person.

27  
28 SECTION 2. Arkansas Code § 5-37-201(c), regarding the offense of  
29 forgery in the second degree, is amended to read as follows:

30 (c) A person commits forgery in the second degree if he or she forges  
31 a written instrument that is:

32 (1) A deed, will, codicil, contract, assignment, check,  
33 commercial instrument, credit card, electronic check, or other written  
34 instrument that does or may evidence, create, transfer, terminate, or  
35 otherwise affect a legal right, interest, obligation, or status;

36 (2) A public record, or an instrument filed or required by law

1 to be filed, or an instrument legally entitled to be filed in a public office  
2 or with a public servant; or

3 (3) A written instrument officially issued or created by a  
4 public office, public servant, or government agent.

5

6 SECTION 3. Arkansas Code § 5-37-207 is amended to read as follows:

7 5-37-207. Fraudulent use of a credit card, ~~or~~ debit card, or  
8 electronic check.

9 (a) A person commits the offense of fraudulent use of a credit card,  
10 ~~or~~ debit card, or electronic check if with purpose to defraud, he or she uses  
11 a credit card, credit card account number, debit card, ~~or~~ debit card account  
12 number, or electronic check to obtain property or a service ~~with knowledge~~  
13 knowing that:

14 (1) The credit card, credit card account number, debit card, ~~or~~  
15 debit card account number, or electronic check is stolen;

16 (2) The credit card, credit card account number, debit card, ~~or~~  
17 debit card account number, or electronic check has been revoked or cancelled;

18 (3) The credit card, credit card account number, debit card, ~~or~~  
19 debit card account number, or electronic check is forged; or

20 (4) For any other reason his or her use of the credit card,  
21 credit card account number, debit card, ~~or~~ debit card account number, or  
22 electronic check is unauthorized by either the issuer or the person to whom  
23 the credit card, ~~or~~ debit card, or electronic check is issued.

24 (b) Fraudulent use of a credit card, ~~or~~ debit card, or electronic  
25 check is a:

26 (1) Class C felony if the value of all moneys, goods, or  
27 services obtained during any six-month period exceeds one hundred dollars  
28 (\$100); or

29 (2) Class A misdemeanor if otherwise committed.

30

31 /s/Johnston

32

33

34

35

36