

SENATE BILL REPORT

ESB 6248

As Passed Senate, February 17, 2014

Title: An act relating to unlawful possession of instruments of financial fraud.

Brief Description: Making the unlawful possession of instruments of financial fraud a crime.

Sponsors: Senators Pearson, Benton and O'Ban.

Brief History:

Committee Activity: Law & Justice: 1/27/14, 2/03/14 [DP].

Passed Senate: 2/17/14, 47-1.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Kline, Ranking Member; Darneille, Pearson, Pedersen and Roach.

Staff: Tim Ford (786-7423)

Background: Instruments used to commit financial fraud may include stolen checks, credit cards, or debit cards; fake checks with fictitious names or accounts; fake identification cards; or equipment to produce fake driver licenses or checks. It is a crime to possess instruments of financial fraud if a person possesses check-making equipment with intent to defraud any person or organization. The crime of unlawful possession of instruments of financial fraud is a class C felony.

Summary of Engrossed Bill: An additional crime of possession of instruments of financial fraud is created if a person also possesses a device to receive financial information from an access device with the intent to commit financial fraud. An access device means any card, code, account number, or other means of account access that can be used to obtain money, goods, services, or that can be used to initiate a transfer of funds, other than solely by paper instrument. A device for receiving financial information may include, but is not limited to, wireless devices, magnetic card readers, video recorders, and automated teller machine overlays. The crime of unlawful possession of instruments of financial fraud is a class C felony.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The legislature finds that financial fraud is being committed with more sophisticated devices including electronic devices. The narrow intent of this act is to combat financial fraud only and not to address other uses by electronic or wireless devices.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on January 1, 2015.

Staff Summary of Public Testimony: PRO: Mere possession of instruments of financial fraud is not much of a crime and is a gross misdemeanor. It is very inexpensive to buy a skimmer that reads the information on a credit card. Skimmers are common technology used by persons to commit financial fraud. As technology evolves, criminals will use the new technology to commit crimes. We need to update the laws to give us the ability to arrest and charge criminals who use new technology. Many foreigners commit financial fraud and electronic information as credit card numbers are easily transmitted around the world.

CON: We take victimization seriously. Criminals should be captured and law-abiding citizens should not. The bill is unconstitutional for being vague and overbroad. Every type of wireless device conceivable, including my iPhone, could be covered as an instrument of financial fraud as defined in this bill. Based on testimony in favor of the bill, there are concerns for future discriminatory arrests of any person who looks foreign. The list of devices in the bill should be more detailed, like the burglary tools law. The bill needs an intent section with language that spells out how the law is to be used.

Persons Testifying: PRO: Senator Pearson, prime sponsor; Melinda Young, King Co. Prosecutors Office; Shelby Shearer, Bellevue Police Dept.; Peter Lewicki, King Co. Prosecutors Office.

CON: Amanda Lee, WA Defenders Assn.