

# HOUSE BILL REPORT

## HB 2899

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**As Reported by House Committee On:**  
Public Safety

**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:** Representatives Kirby and Ryu.

**Brief History:**

**Committee Activity:**

Public Safety: 2/2/16, 2/5/16 [DP].

**Brief Summary of Bill**

- Makes possession of a device that has the ability to capture, read, scan, store, record, transmit, or receive financial information from an access device, a class C felony, when the intent is to commit financial fraud.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** Do pass. Signed by 9 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Moscoso, Pettigrew and Wilson.

**Staff:** Yvonne Walker (786-7841).

**Background:**

A person can commit financial fraud in a variety of ways including, but not limited to, the unlawful:

- production of payment instruments: printing or producing a check or other payment instrument in the name of a person or entity, or with the routing number or account number of a person or entity without the permission of that person or entity;
- possession of payment instruments: possessing two or more checks or other payment instruments, alone or in combination, in the name of another person, entity, or

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- fictitious person or entity, or with a fictitious routing number or account number to commit theft, forgery, or identity theft;
- possession of a personal identification device: possessing a personal identification device with intent to use the device to commit theft, forgery, or identity theft;
  - possession of fictitious identification: possessing a personal identification card with a fictitious person's identification with intent to use the identification card to commit theft, forgery, or identity theft; or
  - possession of instruments of financial fraud: possessing a check-making machine, equipment, or software, with intent to use or distribute checks for purposes of defrauding an account holder, business, financial institution, or other person or organization.

Such crimes are seriousness level I, class C felony offenses. A first-time offender would receive a presumptive sentence of zero to 60 days in jail.

An "access device" means any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument.

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**Summary of Bill:**

The crime of Unlawful Possession of Instruments is created. A person is guilty of Unlawful Possession of Instruments of Financial Fraud if he or she possesses a device that has the ability to capture, read, scan, store, record, transmit, or receive financial information from an access device, with the intent to commit financial fraud. Unlawful Possession of Instruments of Financial Fraud is a class C felony offense.

A device that has the ability to capture, read, scan, store, record, transmit, or receive financial information may include, but is not limited to: automated teller machine (ATM) overlays, wireless devices, magnetic card readers, video recorders, memory and data storage devices, and wireless transmitters and receivers.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on January 1, 2017.

**Staff Summary of Public Testimony:**

(In support) There is a growing number of credit unions that are being hit with skimming devices that are put on their drive-thru machines. Credit union losses have been significant

with some banks losing hundreds of thousands of dollars in one summer. They are organized groups and sophisticated criminals that are using these devices.

(Opposed) None.

**Persons Testifying:** Mark Minickiello, Northwest Credit Union Association; and Brad Tower, Community Bankers of Washington.

**Persons Signed In To Testify But Not Testifying:** None.