

# SENATE BILL REPORT

## SB 5069

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As of January 20, 2015

**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, Warnick and Hewitt.

**Brief History:**

**Committee Activity:** Law & Justice: 1/20/15.

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### SENATE COMMITTEE ON LAW & JUSTICE

**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's 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 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.

**Appropriation:** None.

**Fiscal Note:** Requested on January 15, 2015.

**Committee/Commission/Task Force Created:** No.

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*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.*

**Effective Date:** The bill takes effect on January 1, 2016.

**Staff Summary of Public Testimony:** PRO: The possession of instruments used for financial fraud is not a crime by itself even where there is intent to commit a crime. 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. You can't hold a person in jail just for the possession of instruments of financial fraud, so they can flee the jurisdiction. There has been more financial fraud since this bill was introduced in the last legislative session. This bill would make it easier to preserve evidence and hold suspected criminals in jail while further investigating potential identity theft. We need to update the laws to give us the ability to arrest and charge criminals who use new technology.

OTHER: The criminal intent needs to be spelled out similar to unlawful possession of burglary tools which show a manifestation of intent.

**Persons Testifying:** PRO: Senator Pearson, prime sponsor; Melinda Young, King County Prosecutor; Shelby Shearer, Bellevue Police Dept.; Peter Lewicki, King County Prosecutor's Office.

OTHER: Mark Muenster, WA Assn. of Criminal Defense Lawyers.