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HOUSE BILL 2899

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State of Washington

64th Legislature

2016 Regular Session

By Representatives Kirby and Ryu

Read first time 01/26/16. Referred to Committee on Public Safety.

1 AN ACT Relating to unlawful possession of instruments of  
2 financial fraud; amending RCW 9A.56.320; creating a new section;  
3 prescribing penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that financial fraud  
6 is being committed with more sophisticated devices including  
7 electronic devices. The narrow intent of this act is to combat  
8 financial fraud only and not to address other uses by electronic or  
9 wireless devices.

10 **Sec. 2.** RCW 9A.56.320 and 2003 c 119 s 1 are each amended to  
11 read as follows:

12 (1) A person is guilty of unlawful production of payment  
13 instruments if he or she prints or produces a check or other payment  
14 instrument in the name of a person or entity, or with the routing  
15 number or account number of a person or entity, without the  
16 permission of the person or entity to manufacture or reproduce such  
17 payment instrument with such name, routing number, or account number.

18 (2)(a) A person is guilty of unlawful possession of payment  
19 instruments if he or she possesses two or more checks or other  
20 payment instruments, alone or in combination:

1 (i) In the name of a person or entity, or with the routing number  
2 or account number of a person or entity, without the permission of  
3 the person or entity to possess such payment instrument, and with  
4 intent either to deprive the person of possession of such payment  
5 instrument or to commit theft, forgery, or identity theft; or

6 (ii) In the name of a fictitious person or entity, or with a  
7 fictitious routing number or account number of a person or entity,  
8 with intent to use the payment instruments to commit theft, forgery,  
9 or identity theft.

10 (b) (a)(i) of this subsection does not apply to:

11 (i) A person or financial institution that has lawful possession  
12 of a check, which is endorsed to that person or financial  
13 institution; and

14 (ii) A person or financial institution that processes checks for  
15 a lawful business purpose.

16 (3) A person is guilty of unlawful possession of a personal  
17 identification device if the person possesses a personal  
18 identification device with intent to use such device to commit theft,  
19 forgery, or identity theft. "Personal identification device" includes  
20 any machine or instrument whose purpose is to manufacture or print  
21 any driver's license or identification card issued by any state or  
22 the federal government, or any employee identification issued by any  
23 employer, public or private, including but not limited to badges and  
24 identification cards, or any credit or debit card.

25 (4) A person is guilty of unlawful possession of fictitious  
26 identification if the person possesses a personal identification card  
27 with a fictitious person's identification with intent to use such  
28 identification card to commit theft, forgery, or identity theft, when  
29 the possession does not amount to a violation of RCW 9.35.020.

30 (5) A person is guilty of unlawful possession of instruments of  
31 financial fraud if the person possesses a check-making machine,  
32 equipment, or software, with intent to use or distribute checks for  
33 purposes of defrauding an account holder, business, financial  
34 institution, or any other person or organization.

35 (6) A person is guilty of unlawful possession of instruments of  
36 financial fraud if he or she possesses a device that has the ability  
37 to capture, read, scan, store, record, transmit, or receive financial  
38 information from an access device, with the intent to commit  
39 financial fraud. For the purposes of this subsection:

40 (a) An access device is defined in RCW 9A.56.010;

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

6        (7) This section does not apply to:

7        (a) A person, business, or other entity, that has lawful  
8 possession of a check, which is endorsed to that person, business, or  
9 other entity;

10       (b) A financial institution or other entity that processes checks  
11 for a lawful business purpose;

12       (c) A person engaged in a lawful business who obtains another  
13 person's personal identification in the ordinary course of that  
14 lawful business;

15       (d) A person who obtains another person's personal identification  
16 for the sole purpose of misrepresenting his or her age; and

17       (e) A law enforcement agency that produces or displays  
18 counterfeit credit or debit cards, checks or other payment  
19 instruments, or personal identification devices for investigative or  
20 educational purposes.

21       ~~((+7))~~ (8) In a proceeding under this section that is related to  
22 an identity theft under RCW 9.35.020, the crime will be considered to  
23 have been committed in any locality where the person whose means of  
24 identification or financial information was appropriated resides, or  
25 in which any part of the offense took place, regardless of whether  
26 the defendant was ever actually in that locality.

27       ~~((+8))~~ (9) A violation of this section is a class C felony.

28       NEW SECTION.    **Sec. 3.** This act takes effect January 1, 2017.

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