

ONE HUNDRED NINTH LEGISLATURE - FIRST SESSION - 2025
COMMITTEE STATEMENT
LB559

Hearing Date: Friday February 28, 2025
Committee On: Judiciary
Introducer: Bosn
One Liner: Provide for offenses relating to skimmer devices and criminal enterprises involving financial offenses

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Bosn, DeBoer, Hallstrom, Holdcroft, Rountree, Storer, Storm
Nay:	1	Senator McKinney
Absent:		
Present Not Voting:		

Testimony:

Proponents:

Senator Carolyn Bosn
Gene Klein

Bebe Strnad
Michael DeChellis
Derek Colledge
Dexter Schrodt
Ryan McIntosh
John Lindsay

Opponents:

Spike Eickholt

Neutral:

Representing:

Opening Presenter
Nebraska Alliance of Child Advocacy Centers;
Project Harmony
Nebraska Attorney General's Office
Douglas County Sheriff
First National Bank of Omaha
Nebraska Independent Community Bankers
Nebraska Bankers Association
First National Bank

Representing:

Nebraska Criminal Defense Attorneys Association

Representing:

* ADA Accommodation Written Testimony

Summary of purpose and/or changes:

LB559 creates a definition in section 28-618 for "skimmer device" and outlaws the use of skimmer devices under new sections of law for offenses involving fraud in certain financial transactions. It also creates penalties for continuing criminal enterprises that use skimmer devices. LB559 further amends sections 28-1601 and 28-1602 to amend forfeiture of property provisions to include application of such provisions to violations of section 3, 4, or 5 of the bill.



Explanation of amendments:

AM731 is a white copy amendment to LB559 that strikes and replaces the original sections. AM731 includes LB 559 and adds LB464 to the bill which adds the offense of organized retail crime to the Nebraska Criminal Code, provides penalties, and creates the Financial Fraud Victims' Reimbursement Fund. The Financial Fraud Victims' Reimbursement Fund was added by AM465 to LB464 which was adopted by the committee. AM731 strikes section 5 of LB464 regarding clarification as to what is not a defense to the commission of an organized retail crime.

Testifiers on LB464:**Proponents:**

Senator Carolyn Bosn , Opening Presenter
Aaron Hanson, Douglas County Sheriff's Office
Rich Otto, Nebraska Retail Federation; National Federation of Independent Businesses
Jared Minary, Lincoln Police Department
Justin Otoski, Self
Ansley Fellers, Nebraska Grocery Industry Association
Brisa Lara, Self

Opponents:

Spike Eickholt, Nebraska Criminal Defense Attorneys Association

Neutral: None

Committee vote to attach LB464:

Yes: 7 Bosn, DeBoer, Hallstrom, Holdcroft, Rountree, Storer, Storm;

No: 1 McKinney;

Absent: 0;

Present Not Voting: 0;

Section by Section Summary**Section 1**

Amends section 28-101 to add sections 3 to 6 of LB559 (sec.3 to 6 of AM731) and sections 2 to 5 of LB464 (secs 7 to 9 of AM731) to the Nebraska Criminal Code.

Section 2

Amends section 28-618 by adding a definition of a "skimmer device" as an electronic or other device used to capture, record, store, or transmit data from a financial transaction device or to capture or record an account holder's personal identification code. (LB559)

Section 3

Adds a new section of law making it unlawful to install a skimmer device without authorization on an automated banking device or a point-of-sale terminal, including any fuel pump, for the purpose of obtaining money, credit, property, or anything of value and with the intent to defraud. This section also provides that installation of a skimmer device shall be considered done without authorization if such installation is, for any reason, done without authorization



by the issuer, account holder, owner of the automated banking device, or owner of the point-of-sale terminal. This section provides that a violation is a Class IV felony. (LB559)

Section 4

Adds a new section of law making it unlawful to use a skimmer device as described in section 3. This section provides that a violation shall be punished by different penalty classifications according to the total value of the money, credit, property, or things of value obtained, or the financial payments made, as a result of the violation, as prescribed in subsection (2) of this section based on such values. This section also provides an enhancement for any subsequent conviction for any prior conviction occurring no more than ten years prior, as well providing the ability to aggregate one scheme or course of conduct from one or more persons when determining the classification of the offense, except that the amounts are not aggregated into more than one offense. (LB 559)

Section 5

Defines terms within this section to include "financial transaction" and "leadership position." This section provides criteria for what constitutes a continuing criminal enterprise in violation of this section. A person is engaged in a continuing criminal enterprise if such person commits any financial transaction offense and the offense is part of a continuing series of financial transaction offenses; the series of offenses are undertaken by a person in concert with two or more persons with respect to whom such person acts in a leadership position; and the person obtains substantial income or resources from such activities. This section also provides for different penalty classifications for violations, along with corresponding gross receipt amounts and the number of persons acting in concert with the defendant. (LB 559)

Section 6

Adds a new section of law that provides that in addition to existing penalties available for a violation, a sentencing court may order a forfeiture as provided in sections 28-1601 to 28-1603 for a violation of sections 28-618 to 28-630 and sections 3 to 5 of this act.

Section 7

Adds a new section of law that, for purposes of sections 7 to 9 of this act, provides that "aggravated retail market" means the total combined value of all retail merchandise involved in a violation of section 8 of this act. Such retail value shall be calculated based on the price at which the retail merchandise would be sold in the ordinary course of business. If the value can't be reasonably ascertained, the value shall be calculated based on the cost of replacement. This section defines "organized retail crime" as theft of retail merchandise with the intent or purpose of reselling, distributing, or otherwise reentering the merchandise back into commerce; or transferring the stolen retail merchandise to another retailer or another person in exchange for anything of value. "Retail commerce", "retail merchandise", and "retailer" are also defined. (LB464)

Section 8

Adds a new section of law that provides that a person commits the offense of organized retail crime when that person, acting alone or in association with another person, does any of the following: knowingly commits an organized retail crime; organizes, supervises, finances, or otherwise manages or assists another person in committing such crime; removes, destroys, deactivates, or knowingly evades any component of an anti-shoplifting or inventory-control device to prevent the activation of the device or to facilitate another person's commission of an organized retail crime; conspires with another person to commit an organized retail crime; receives, purchases, or possesses retail merchandise for sale or resale if a reasonable person would know such merchandise to be stolen; uses any artifice, instrument, container, device, or other article to facilitate the commission of an organized retail crime; or knowingly causes a fire exit alarm to sound or otherwise activate, or deactivates or prevents a fire alarm from sounding, in the commission of an organized retail crime or to facilitate its commission by another person. (LB464)



Section 9

Adds a new section of law that provides that a violation of section 8 of this act shall be a Class IIA felony when the aggregated retail market value of the merchandise is \$5,000 or more, a Class IV felony when the aggregated retail market value of the merchandise is \$1,500 or more but less than \$5,000 or more, and a Class I misdemeanor when the aggregated retail market value of the merchandise is more than \$500 but less than \$1,500. This section also provides that a second or subsequent conviction under subdivision (1)(c) of this section shall be a Class IV felony, except that the prior conviction must have occurred no more than ten years prior to the date of commission of the current offense. This section also provides that the aggregated retail market value of amounts taken pursuant to one organized retail crime scheme from one or more persons may be aggregated in the same indictment, information, or complaint in determining the classification of the offense, except that amounts shall not aggregated into more than one offense. The aggregated retail market value shall be an essential element of the offense and must be proven beyond a reasonable doubt. (LB464)

Section 10

Amends section 28-1601 to define a "covered offense" as a violation of the Child Pornography Prevention Act, subsection (1) of 28-416, or section 28-813.01, 28-1102, 28-1103, 28-1104, 28-1105, 28-1105.01, or a financial transaction offense under sections 28-618 to 28-630 and section 3, 4, or 5 of this act for purposes of ordering a forfeiture under this section. This section also defines "electronic communication device", "financial transaction offense" and "gambling device" and harmonizes changes. (LB 559)

Section 11

Amends section 28-1602 to harmonize with changes made to section 28-1601 relating to defining "covered offense" to include violation of sections 28-618 to 28-630 and sections 3 to 5 of this act. (LB 559)

Section 12

Adds a new section of law that creates the Financial Fraud Victims' Reimbursement Fund. The fund shall be administered by the Attorney General. The fund shall consist of assets forfeited from financial transaction offenses as provided in subdivision (8)(b)(ii) of section 28-1601. This section also provides that a victim who has suffered a loss as a result of a financial transaction offense may apply for reimbursement from the fund through an application process prescribed by the Attorney General. The Attorney General shall determine whether the applicant has suffered a qualifying loss and if so, the extent of reimbursement that shall be made. If there are more applicants with qualified losses than there are funds available, the Attorney General shall distribute the funds on a pro rata basis according to the amount of loss suffered. There is a thirty-six month period prescribed in this section for which funds either transferred to the fund after such period, or remaining after resolution of applications filed during such period, whichever is later, shall be remitted for distribution according to Art. VII, Sec.5, of the Constitution of Nebraska. (LB464 as amended by AM465)

Section 13

Repealer



