STATE OF NEW YORK

8528

IN ASSEMBLY

January 5, 2024

Introduced by M. of A. ROZIC -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law and the social services law, in relation to a model notification regarding electronic benefits transfer scams involving certain public assistance benefits

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 390-e of the general business law, as added by a chapter of the laws of 2023 amending the general business law relating to requiring a notice to be posted regarding skimming, as proposed in legislative bills numbers S. 6088 and A. 4023-A, is amended to read as follows:

§ 390-e. Skimming awareness notice. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "electronic benefit transfer card" means any medical assistance card, [~~food stamp assistance card, public assistance card~~] **payment access card pursuant to subdivision nine of section one hundred thirty-one of the social services law**, or any other identification, authorization card or electronic access device issued by the state or a social services district as defined in subdivision seven of section two of the social services law **by** which [~~entitles~~] a person [~~to obtain public assistance benefits~~] **may access their medical assistance, supplemental nutrition assistance program, or public assistance benefits** under a local, state or federal program administered by the state, its political subdivisions or social services districts; and

(b) "skimming" shall be defined as obtaining a consumer's personal identifying information as defined in subdivision one of section 190.77 of the penal law through the use of a skimmer device as defined in subdivision two of section 190.85 of the penal law.

2. Notwithstanding any other law to the contrary, every person, firm, partnership, association or corporation who is engaged in a sales transaction and accepts electronic benefit transfer cards shall place a sign at the point of sale containing a notice regarding skimming. Such sign shall include**: (a) a link to a web page maintained by the office of**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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temporary and disability assistance with information for victims of electronic benefit transfer scams, including, but not limited to, skimming; (b) steps customers can take to protect themselves from skimming [~~and~~]; (c) an appropriate contact number as determined by the [~~secretary of state~~] office of temporary and disability assistance to report [~~incidences of suspected skimming~~] that an electronic benefit transfer card was compromised and to disable and request a new electronic benefit transfer card; and (d) a request to notify law enforcement if a skimmer device appears to be in use. The [~~secretary of state~~] office of temporary and disability assistance shall make available on [~~the department of state's~~] its website[~~,~~] a model sign as required by subdivision six of section one hundred fifty-two-d of the social services law that such establishments may use to comply with the provisions of this section.

3. (a) Any person, firm, partnership, association or corporation who fails to comply with the requirements of this section [~~shall be issued a warning and provided with information on compliance with this section. For each additional violation for failure to comply, such person or entity~~] shall be assessed a civil penalty not to exceed two hundred fifty dollars per point of sale which lacks the notice required pursuant to subdivision two of this section for the second and each separate subsequent offense.

(b) If the notice required pursuant to subdivision two of this section has been provided and such notice is subsequently removed, damaged, or altered by any person other than the person or entities required to provide such notice, such person or entities shall have no liability for a failure to comply with subdivision two of this section as long as such notice is replaced within ten business days from such person or entities becoming aware of the defect.

§ 2. Section 152-d of the social services law is amended by adding a new subdivision 6 to read as follows:

6. The office of temporary and disability assistance shall make a model sign available on its website that can be used by any person, firm, partnership, association or corporation required to inform individuals about electronic benefit transfer scams, including, but not limited to, skimming, and the steps they can take to protect their benefits in accordance with section three hundred ninety-e of the general business law.

§ 3. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2023 amending the general business law relating to requiring a notice to be posted regarding skimming, as proposed in legislative bills numbers S. 6088 and A. 4023-A, takes effect.