

AMENDED IN SENATE APRIL 23, 2014  
AMENDED IN SENATE APRIL 22, 2014  
AMENDED IN SENATE MARCH 26, 2014

**SENATE BILL**

**No. 1351**

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**Introduced by Senator Hill**

February 21, 2014

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An act to add and repeal Title 1.3E (commencing with Section 1748.70) of Part 4 of Division 3 of the Civil Code, relating to payment cards.

LEGISLATIVE COUNSEL'S DIGEST

SB 1351, as amended, Hill. Payment cards.

Existing law generally provides for the regulation of credit and debit cards, including, but not limited to, limitations on the methods for offering and denying a credit card, requirements for listing the name appearing on a credit card, and restrictions on a person's liability for an unauthorized used of his or her credit or debit card.

This bill would require retailers, starting ~~October 1, 2015~~, *April 1, 2016*, except as specified, that accept a payment card, as defined, to provide a means of processing card-present payment card transactions involving payment cards equipped with embedded microchips ~~capable of storing a personal identification number (PIN)~~ or any other technology that is generally accepted within the payments industry as being more secure than microchip technology for card-present fraud prevention. The bill would require a retailer that issues a payment card that lacks a payment network logo to ensure that any new or replacement card issued on or after October 1, 2017, has an embedded microchip ~~capable of storing a PIN~~ or any other technology that is generally accepted

within the payments industry as being more secure than microchip technology for card-present fraud prevention. The bill would also require specified contracts entered into between a financial institution, as defined, and a payment card network, as those terms are defined, to include a provision requiring that a new or replacement payment card issued to a cardholder with a California mailing address have an embedded microchip ~~capable of storing a personal identification number~~ or any other technology that is generally accepted within the payments industry as being more secure than microchip technology for card-present fraud prevention. The bill would make legislative findings and declarations in this regard and would repeal these requirements on or before January 1, 2020, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the  
2 following:
- 3 (a) Over 80 countries utilize microchip technology for credit  
4 cards, including, but not limited to, Canada, Mexico, Brazil, and  
5 countries throughout Europe and Asia.
- 6 (b) The United States is one of the few remaining countries that  
7 relies almost exclusively on magnetic stripe technology for credit  
8 and debit cards.
- 9 (c) Credit and debit cards with microchip technology are  
10 preferred to magnetic stripe cards because identifying information  
11 is encrypted on an embedded microchip, which is more difficult  
12 to counterfeit than a magnetic stripe.
- 13 (d) Adoption of microchip technology in Britain has helped  
14 reduce fraud from counterfeit cards by 70 percent from 2007 to  
15 2012, inclusive, according to the UK Card Association.
- 16 (e) By contrast, breaches have more than doubled since 2007  
17 at retailers in the United States, affecting more than 5,000 records,  
18 according to a survey by the Ponemon Institute, a research firm  
19 located in Michigan.
- 20 (f) In 2012, United States merchants and banks suffered losses  
21 of \$11.3 billion due to credit card fraud, or \$0.05 on every \$100

1 spent, according to the Nilson Report, a payment-industry  
2 newsletter based in California.

3 (g) If credit and debit cards with microchip technology were  
4 used in the United States, fraud losses could be reduced by 50  
5 percent, according to estimates by Aite Group, an independent  
6 research and advisory firm focused on business, technology, and  
7 regulatory issues and their impact on the financial services industry.

8 (h) It has been widely reported that retailers, banks, financial  
9 institutions, and credit unions are planning on voluntarily adopting  
10 microchip technology beginning in October 2015.

11 SEC. 2. Title 1.3E (commencing with Section 1748.70) is  
12 added to Part 4 of Division 3 of the Civil Code, to read:

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14 TITLE 1.3E. MICROCHIP PAYMENT CARDS

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16 1748.70. (a) Except as specified in subdivision (b), on and  
17 after January 1, 2015, any contract entered into between a financial  
18 institution and a payment card network to govern the circumstances  
19 under which the logo of the payment card network is displayed on  
20 a payment card issued by that financial institution shall include a  
21 provision requiring that any new or replacement payment card  
22 issued on or after ~~October 1, 2015~~, *April 1, 2016*, to a cardholder  
23 with a California mailing address by that financial institution with  
24 that payment card logo, have an embedded microchip ~~capable of~~  
25 ~~storing a personal identification number~~ or any other technology  
26 that is generally accepted within the payments industry as being  
27 more secure than microchip technology for card-present fraud  
28 prevention.

29 (b) On and after January 1, 2017, any contract entered into  
30 between a small financial institution and a payment card network  
31 to govern the circumstances under which the logo of the payment  
32 card network is displayed on a payment card issued by that  
33 financial institution shall include a provision requiring that any  
34 new or replacement payment card issued on or after October 1,  
35 2017, to a cardholder with a California mailing address by that  
36 financial institution with that payment card logo, have an embedded  
37 microchip ~~capable of storing a personal identification number~~ or  
38 any other technology that is generally accepted within the payments  
39 industry as being more secure than microchip technology for  
40 card-present fraud prevention.

1 (c) A small financial institution that subsequently exceeds five  
2 billion dollars (\$5,000,000,000) in assets shall be provided with  
3 one year from the date it first exceeds the five-billion-dollar  
4 (\$5,000,000,000) threshold to comply with subdivision (a).

5 1748.75. (a) On and after ~~October 1, 2015~~, *April 1, 2016*, a  
6 retailer that accepts a payment card in a card-present, point-of-sale  
7 transaction shall provide a means of processing card-present,  
8 point-of-sale payment card transactions involving payment cards  
9 equipped with an embedded microchip capable of storing a  
10 personal identification number or any other technology that is  
11 generally accepted within the payments industry as being more  
12 secure than microchip technology for card-present fraud prevention.

13 (b) A retailer that issues a payment card that lacks a payment  
14 network logo shall ensure that any new or replacement payment  
15 card issued on or after October 1, 2017, has an embedded microchip  
16 ~~capable of storing a PIN~~ or any other technology that is generally  
17 accepted within the payments industry as being more secure than  
18 microchip technology for card-present fraud prevention.

19 (c) The requirements of subdivision (a) shall apply to small  
20 retailers and gas station pump payment terminals on and after  
21 October 1, 2017.

22 1748.80. For purposes of this title, the following terms shall  
23 have the following meanings:

24 (a) “Financial institution” means a depository institution or other  
25 entity that issues a payment card to a cardholder for use by that  
26 cardholder to purchase goods, services, or anything else of value.  
27 “Financial institution” can include a retailer.

28 (b) “Payment card” means a credit or debit card.

29 (c) “Payment card network” means an entity that facilitates the  
30 payment process between credit or debit card users, retailers, and  
31 credit or debit card issuers.

32 (d) “Retailer” means a person or entity that furnishes money,  
33 goods, services, or anything else of value upon the presentation  
34 of a payment card by a cardholder. “Retailer” shall not mean the  
35 state, a county, city, city and county, or any other political  
36 subdivision of the state.

37 (e) “Small financial institution” means a financial institution  
38 with assets of five billion dollars (\$5,000,000,000) or less as of  
39 January 1, 2015.

40 (f) “Small retailer” means a retailer with 10 or less employees.

1 1748.85. It is the intent of the Legislature that this title provide  
2 consumer protection consistent with federal law.

3 1748.90. This title shall remain in effect only until January 1,  
4 2020, and as of that date is repealed, unless a later enacted statute,  
5 that is enacted before January 1, 2020, deletes or extends that date.

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