

AMENDED IN SENATE MAY 22, 2014  
AMENDED IN SENATE MAY 19, 2014  
AMENDED IN SENATE MAY 13, 2014  
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 use of his or her credit or debit card.

This bill would require retailers, starting 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 or any other technology that is more secure than ~~microchip~~ *static magnetic stripe* technology for card-present fraud prevention. The bill would also require specified

contracts entered into between a financial institution and a payment card network, as those terms are defined, to include a provision requiring that a 75% of new or replacement payment-card cards issued to a cardholder with a California mailing address have an embedded microchip or any other technology that is 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
- 22 spent, according to the Nilson Report, a payment-industry
- 23 newsletter based in California.
- 24 (g) If credit and debit cards with microchip technology were
- 25 used in the United States, fraud losses could be reduced by 50

1 percent, according to estimates by Aite Group, an independent  
2 research and advisory firm focused on business, technology, and  
3 regulatory issues and their impact on the financial services industry.

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

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

9  
10 TITLE 1.3E. MICROCHIP PAYMENT CARDS

11  
12 1748.70. (a) Except as specified in subdivision (b), on and  
13 after January 1, 2015, any contract entered into between a financial  
14 institution and a payment card network to govern the circumstances  
15 under which the logo of the payment card network is displayed on  
16 a payment card issued by that financial institution shall include a  
17 provision requiring that ~~any~~ *75 percent of* new or replacement  
18 ~~payment-card cards~~ issued on or after April 1, 2016, to a cardholder  
19 with a California mailing address by that financial institution with  
20 that payment card logo, have an embedded microchip or any other  
21 technology that is more secure than microchip technology for  
22 card-present fraud prevention.

23 (b) On and after January 1, 2017, any contract entered into  
24 between a small financial institution and a payment card network  
25 to govern the circumstances under which the logo of the payment  
26 card network is displayed on a payment card issued by that  
27 financial institution shall include a provision requiring that ~~any~~ *75*  
28 *percent of* new or replacement ~~payment-card cards~~ issued on or  
29 after October 1, 2017, to a cardholder with a California mailing  
30 address by that financial institution with that payment card logo,  
31 have an embedded microchip or any other technology that is more  
32 secure than microchip technology for card-present fraud prevention.

33 (c) A small financial institution that subsequently exceeds five  
34 billion dollars (\$5,000,000,000) in assets shall be provided with  
35 one year from the date it first exceeds the five-billion-dollar  
36 (\$5,000,000,000) threshold to comply with subdivision (a).

37 1748.75. (a) On and after April 1, 2016, a retailer that accepts  
38 a payment card in a card-present, point-of-sale transaction shall  
39 provide a means of processing card-present, point-of-sale payment  
40 card transactions involving payment cards equipped with an

1 embedded microchip or any other technology that is more secure  
2 than ~~microchip~~ *static magnetic stripe* technology for card-present  
3 fraud prevention.

4 (b) The requirements of subdivision (a) shall apply to small  
5 retailers and gas station pump payment terminals on and after  
6 October 1, 2017.

7 1748.80. For purposes of this title, the following terms shall  
8 have the following meanings:

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

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

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

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

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

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

26 1748.85. It is the intent of the Legislature that this title provide  
27 consumer protection consistent with federal law and not impact  
28 private agreements between retailers, small retailers, and payment  
29 card networks relating to which party bears liability for fraudulent  
30 payment card usage.

31 1748.90. This title shall remain in effect only until January 1,  
32 2020, and as of that date is repealed, unless a later enacted statute,  
33 that is enacted before January 1, 2020, deletes or extends that date.