



# HOUSE OF REPRESENTATIVES

SB 1294

scanning devices; burglary; trespass; penalty

Prime Sponsor: Senator Driggs, LD 28

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DP Committee on Judiciary

X Caucus and COW

House Engrossed

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## OVERVIEW

SB 1294 expands the definition of *structure* for purposes of criminal trespassing and burglary and increases the penalty for the unlawful use or possession of a scanning device or re-encoder.

## PROVISIONS

1. Expands the definition of *structure* in the chapter outlining burglary and criminal trespassing offenses to include any device that accepts electronic or physical currency and is used to conduct commercial transactions.
2. Increases the penalty for unlawfully possessing or using a scanning device or re-encoder from a Class 6 felony (presumptive 1 year of incarceration, fine up to \$150,000 plus surcharges) to a Class 4 felony (presumptive 2½ years of incarceration, fine up to \$150,000 plus surcharges).

## CURRENT LAW

A.R.S. Title 13.15 outlines the offenses of criminal trespassing and burglary. [A.R.S. § 13-1501](#) defines *structure* as any vending machine or any building, object, vehicle, railroad car or place with sides and a floor that is separately securable from any other structure attached to it and that is used for lodging, business, transportation, recreation or storage.

[A.R.S. § 13-1503](#) defines criminal trespassing in the 2<sup>nd</sup> degree as knowingly entering or remaining unlawfully in or on any nonresidential *structure* and makes it a Class 2 misdemeanor (up to 4 months in jail, fine up to \$750 plus surcharges).

[A.R.S. § 13-1506](#) defines burglary in the 3<sup>rd</sup> degree as entering or remaining unlawfully in or on a nonresidential *structure* or in a fenced commercial or residential yard with the intent to commit any theft or any felony and makes it a Class 4 felony.

[A.R.S. § 13-2110](#) outlines unlawful possession or use of scanning devices or re-encoders and makes it a Class 6 felony (presumptive 1 year of incarceration, fine up to \$150,000 plus surcharges) to:

- Use a scanning device or re-encoder without the permission of the cardholder of the credit card when the information is being scanned with the intent to defraud the cardholder, issuer, or merchant; or
- Intentionally or knowingly make or possess with the intent to commit fraud any device that is specifically designed to be used as a scanning device or re-encoder.

[A.R.S. § 13-2101](#) defines *re-encoder* as an electronic device that places encoded information from the magnetic strip or stripe of a credit card onto the magnetic strip or stripe of a different

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credit card. This section also defines a *scanning device* as a scanner, reader or other electronic device that is used to access, read, scan, obtain, memorize, transmit or store, temporarily or permanently, information that is encoded on a magnetic strip or stripe of a credit card.