

# HOUSE BILL No. 5051

October 3, 2013, Introduced by Reps. Cotter, Heise, Singh, VerHeulen, Yanez, Faris, Pscholka, Daley, McBroom, Clemente, Hooker, Nesbitt, Townsend, Yonker, Lyons and Oakes and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 539k (MCL 750.539k), as added by 2004 PA 460.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 539k. (1) A person who is not a party to a transaction  
2       that involves the use of a financial transaction device shall not  
3       secretly or surreptitiously photograph, or otherwise capture or  
4       record, electronically or by any other means, or distribute,  
5       disseminate, or transmit, electronically or by any other means,  
6       personal identifying information from the transaction without the  
7       consent of the individual.

1           (2) This section does not prohibit the capture or transmission  
2 of personal identifying information in the ordinary and lawful  
3 course of business.

4           (3) This section does not apply to a peace officer of this  
5 state, or of the federal government, or the officer's agent, while  
6 in the lawful performance of the officer's duties.

7           (4) This section does not prohibit a person from being charged  
8 with, convicted of, or punished for any other violation of law  
9 committed by that person while violating or attempting to violate  
10 this section.

11           (5) A person who violates this section is guilty of a  
12 ~~misdemeanor~~ **FELONY** punishable by imprisonment ~~for not more than 1~~  
13 ~~year or a fine of not more than \$1,000.00, or both.~~ **AS FOLLOWS:**

14           **(A) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (B) AND (C),**  
15 **BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE**  
16 **THAN \$25,000.00, OR BOTH.**

17           **(B) IF THE VIOLATION IS A SECOND VIOLATION OF SUBSECTION (1),**  
18 **BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE**  
19 **THAN \$50,000.00, OR BOTH.**

20           **(C) IF THE VIOLATION IS A THIRD OR SUBSEQUENT VIOLATION OF**  
21 **SUBSECTION (1), BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS OR A**  
22 **FINE OF NOT MORE THAN \$75,000.00, OR BOTH.**

23           (6) As used in this section:

24           (a) "Financial transaction device" means that term as defined  
25 in section 157m.

26           (b) "Personal identifying information" means that term as  
27 defined in section 3 of the identity theft protection act, **2004 PA**

1 452, MCL 445.63.