

SENATE BILL NO. 444

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice

on _____)

(Patron Prior to Substitute—Senator Bagby)

A BILL to amend and reenact §§ 18.2-191, 18.2-192, 18.2-193, 18.2-195, 18.2-197, 18.2-198, and 18.2-198.1 of the Code of Virginia, relating to offenses relating to gift cards; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-191, 18.2-192, 18.2-193, 18.2-195, 18.2-197, 18.2-198, and 18.2-198.1 of the Code of Virginia are amended and reenacted as follows:

Article 6.

Offenses Relating to Credit Cards *and Gift Cards*.**§ 18.2-191. Definitions.**

~~The following words and phrases~~ as ~~As~~ used in this article, unless ~~the context requires~~ a different meaning ~~is plainly required by the context, shall have the following meanings:~~

"Acquirer" means a business organization, financial institution or an agent of a business organization or financial institution that authorizes a merchant to accept payment by credit card or credit card number for money, goods, services, or anything else of value.

"Cardholder" means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

"Closed-loop gift card" means a card, code, or device that is issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and is redeemable upon presentation by a consumer at a single merchant or group of affiliated merchants.

"Credit card" means any instrument or device, whether known as a credit card, credit plate, payment device number, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit. For the purpose of this article, "credit card" shall also include a similar device, whether known as a debit card, or any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value by charging the account of the cardholder with a bank or any other person even though no credit is thereby extended.

32 "Expired credit card" means a credit card which is no longer valid because the term shown on it has
33 elapsed.

34 *"Gift card" means a physical or digital closed-loop gift card or open-loop gift card that is either activated*
35 *or inactivated.*

36 *"Gift card holder" means any person or party to whom a physical or virtual gift card is sold, gifted, or*
37 *issued following the authorized sale of such gift card.*

38 *"Gift card issuer" means any person that issues a gift card.*

39 *"Gift card redemption information" means information unique to each gift card that allows the*
40 *cardholder to access, transfer, or spend the funds on that gift card.*

41 *"Gift card seller" means a merchant that is engaged in the business of selling open-loop or closed-loop*
42 *gift cards to consumers.*

43 "Issuer" means the business organization or financial institution or its duly authorized agent which issues
44 a credit card.

45 *"Open-loop gift card" means a card, code, or device that is issued to a consumer on a prepaid basis*
46 *primarily for personal, family, or household purposes in a specified amount, regardless of whether that*
47 *amount may be increased or reloaded in exchange for payment, and is redeemable upon presentation at*
48 *multiple unaffiliated merchants for goods or services within the payment card network.*

49 "Payment device number" means any code, account number or other means of account access, other than
50 a check, draft or similar paper instrument, that can be used to obtain money, goods, services or anything else
51 of value, or to initiate a transfer of funds. "Payment device number" does not include an encoded or truncated
52 credit card number or payment device number.

53 "Receives" or "receiving" means acquiring possession or control of the credit card number or payment
54 device number or accepting the same as security for a loan.

55 "Revoked credit card" means a credit card which is no longer valid because permission to use it has been
56 suspended or terminated by the issuer.

57 "Sales draft" means a paper or electronic form evidencing a purchase of goods, services or anything else
58 of value from a merchant through the use of a credit card.

59 *"Value" means the greatest amount of economic loss the card issuer, gift card seller, or cardholder might*
60 *reasonably suffer, including the full or maximum monetary face or load value of the gift card, regardless of*
61 *whether or not the gift card has been activated.*

"Cash advance/withdrawal draft" means a paper form evidencing a cash advance or withdrawal from a bank or other financial institution through the use of a credit card.

§ 18.2-192. Credit card or gift card theft; penalty.

(1) A. A person is guilty of credit card or credit card number theft when:

(a) 1. He takes, obtains, or withholds a credit card or credit card number from the person, possession, custody, or control of another without the cardholder's consent or who, with knowledge that it has been so taken, obtained, or withheld, receives the credit card or credit card number with intent to use it or sell it, or to transfer it to a person other than the issuer or the cardholder; or

(b) 2. He receives a credit card or credit card number that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use, to sell or to transfer the credit card or credit card number to a person other than the issuer or the cardholder; or

(c) 3. He, not being the issuer, sells a credit card or credit card number or buys a credit card or credit card number from a person other than the issuer; or

(d) 4. He, not being the issuer, during any ~~twelve-month~~ 12-month period, receives credit cards or credit card numbers issued in the names of two or more persons ~~which~~ that he has reason to know were taken or retained under circumstances ~~which~~ that constitute a violation of § 18.2-194 and subdivision (1) (c) of this section 3.

B. Any person who, with intent to defraud, acquires or retains possession of a gift card or gift card redemption information without the consent of the gift card holder, gift card issuer, or gift card seller is guilty of theft.

(2) ~~Credit card or credit card number theft~~ C. Any violation of this section is grand larceny and is punishable as provided in § 18.2-95.

§ 18.2-193. Credit card and gift card forgery; penalty.

(1) A. A person is guilty of credit card forgery when:

(a) 1. With intent to defraud a purported issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, he falsely makes or falsely embosses a purported credit card or utters such a credit card; or

(b) 2. He, not being the cardholder or a person authorized by him, with intent to defraud the issuer, or a person or organization providing money, goods, services, or anything else of value, or any other person, signs a credit card; or

93 (€) 3. He, not being the cardholder or a person authorized by him, with intent to defraud the issuer, or a
94 person or organization providing money, goods, services, or anything else of value, or any other person,
95 forges a sales draft or cash advance/withdrawal draft, or uses a credit card number of a card of which he is not
96 the cardholder, or utters, or attempts to employ as true, such forged draft knowing it to be forged.

97 (2) B. A person falsely makes a credit card when he makes or draws, in whole or in part, a device or
98 instrument ~~which~~ *that* purports to be the credit card of a named issuer but which is not such a credit card
99 because the issuer did not authorize the making or drawing, or alters a credit card ~~which~~ *that* was validly
100 issued.

101 (3) C. A person falsely embosses a credit card when, without the authorization of the named issuer, he
102 completes a credit card by adding any of the matter, other than the signature of the cardholder, which an
103 issuer requires to appear on the credit card before it can be used by a cardholder.

104 D. Any person who, with intent to defraud, alters or tampers with a gift card or its packaging is guilty of
105 gift card forgery.

106 E. Conviction of credit card or gift card forgery ~~shall be punishable as~~ is a Class 5 felony.

107 **§ 18.2-195. Credit card or gift card fraud; conspiracy; penalties.**

108 (4) A. A person is guilty of credit card fraud when, with intent to defraud any person, he:

109 (a) 1. Uses for the purpose of obtaining money, goods, services, or anything else of value a credit card or
110 credit card number obtained or retained in violation of § 18.2-192 or a credit card or credit card number
111 which he knows is expired or revoked;

112 (b) 2. Obtains money, goods, services, or anything else of value by representing (i) without the consent of
113 the cardholder that he is the holder of a specified card or credit card number or (ii) that he is the holder of a
114 card or credit card number and such card or credit card number has not in fact been issued;

115 (€) 3. Obtains control over a credit card or credit card number as security for debt; or

116 (4) 4. Obtains money from an issuer by use of an unmanned device of the issuer or through a person other
117 than the issuer when he knows that such advance will exceed his available credit with the issuer and any
118 available balances held by the issuer.

119 (2) B. A person who is authorized by an issuer to furnish money, goods, services, or anything else of value
120 upon presentation of a credit card or credit card number by the cardholder, or any agent or employee of such
121 person, is guilty of a credit card fraud when, with intent to defraud the issuer or the cardholder, he:

122 (a) 1. Furnishes money, goods, services, or anything else of value upon presentation of a credit card or
123 credit card number obtained or retained in violation of § 18.2-192, or a credit card or credit card number

which ~~that~~ he knows is expired or revoked;

(b) 2. Fails to furnish money, goods, services, or anything else of value ~~which that~~ he represents or causes to be represented in writing or by any other means to the issuer that he has furnished; or

(c) 3. Remits to an issuer or acquirer a record of a credit card or credit card number transaction ~~which that~~ is in excess of the monetary amount authorized by the cardholder.

(3) C. Any person who, with intent to defraud, devises a scheme to obtain a gift card or gift card redemption information from a gift card holder, gift card issuer, or gift card seller by means of false or fraudulent pretenses, representations, or promises is guilty of gift card fraud.

D. Conviction of credit card or gift card fraud is punishable as a Class 1 misdemeanor if the value of all money, goods, services, and other things of value furnished in violation of this section, or if the difference between the value of all money, goods, services, and anything else of value actually furnished and the value represented to the issuer or gift card issuer to have been furnished in violation of this section, is less than \$1,000 in any six-month period; conviction of credit card or gift card fraud is punishable as a Class 6 felony if such value is \$1,000 or more in any six-month period.

(4) E. Any person who conspires, confederates, or combines with another, (i) either within or ~~without~~ outside of the Commonwealth to commit credit card or gift card fraud within the Commonwealth or (ii) within the Commonwealth to commit credit card or gift card fraud within or ~~without~~ outside of the Commonwealth, is guilty of a Class 6 felony.

§ 18.2-197. Criminally receiving goods and services fraudulently obtained; penalty.

A person is guilty of criminally receiving goods and services fraudulently obtained when he receives money, goods, services, or anything else of value obtained in violation of subsection (4) A or C of § 18.2-195 with the knowledge or belief that the same were obtained in violation of subsection (4) A or C of § 18.2-195. Conviction of criminal receipt of goods and services fraudulently obtained is punishable as a Class 1 misdemeanor if the value of all money, goods, services, and anything else of value, obtained in violation of this section, is less than \$1,000 in any six-month period; conviction of criminal receipt of goods and services fraudulently obtained is punishable as a Class 6 felony if such value is \$1,000 or more in any six-month period.

§ 18.2-198. Obtaining airline, railroad, steamship, etc., ticket at discount price.

A person who obtains at a discount price a ticket issued by an airline, railroad, steamship, or other transportation company from other than an apparent agent of such company which was acquired in violation of subsection (4) A or C of § 18.2-195 without reasonable inquiry to ascertain that the person from whom it

155 was obtained had a legal right to possess it shall be presumed to know that such ticket was acquired under
156 circumstances constituting a violation of subsection ~~(4)~~ A or C of § 18.2-195.

157 **§ 18.2-198.1. Venue.**

158 Notwithstanding the provisions of § 19.2-244, a prosecution for a violation of this article may be had in
159 any county or city in which (i) any act in furtherance of the crime was committed; (ii) an issuer or acquirer, or
160 an agent of either, *or a gift card issuer or gift card holder, or an agent of either*, sustained a financial loss as
161 a result of the offense; or (iii) the cardholder *or gift card holder* resides. A prosecution for a violation of
162 § 18.2-192 may be had in any county or city where a credit card number, *gift card, or gift card redemption*
163 *information* is used, is attempted to be used, or is possessed with intent to violate § 18.2-193, 18.2-195, or
164 18.2-197.

165 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
166 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
167 **appropriation is _____ for periods of imprisonment in state adult correctional facilities; therefore,**
168 **Chapter 725 of the Acts of Assembly of 2025 requires the Virginia Criminal Sentencing Commission to**
169 **assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the**
170 **estimated amount of the necessary appropriation is _____ for periods of commitment to the custody**
171 **of the Department of Juvenile Justice.**