

SENATE BILL 874

E1

5lr2364
CF 5lr2362

By: **Senator Folden**

Introduced and read first time: January 28, 2025

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Gift Card Crimes**

3 FOR the purpose of prohibiting a person from taking a certain gift card from another or
4 receiving a gift card with the intent to use, sell, or transfer the gift card in a certain
5 manner; prohibiting a person from receiving a gift card that the person knows was
6 lost, mislaid, or delivered under a mistake and retaining possession in a certain
7 manner; prohibiting a person from selling and buying a gift card under certain
8 circumstances; prohibiting a person from falsely making or embossing a gift card or
9 transferring or possessing certain falsely made gift cards under certain
10 circumstances; prohibiting a person other than a certain intended gift card recipient
11 from signing a gift card with the intent to defraud another; and generally relating to
12 crimes involving gift cards.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 8–201 to be under the amended subtitle “Subtitle 2. Credit Card and Gift
16 Card Crimes”
17 Annotated Code of Maryland
18 (2021 Replacement Volume and 2024 Supplement)

19 BY adding to
20 Article – Criminal Law
21 Section 8–204.1 and 8–205.1
22 Annotated Code of Maryland
23 (2021 Replacement Volume and 2024 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
25 That the Laws of Maryland read as follows:

26 **Article – Criminal Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Subtitle 2. Credit Card AND GIFT CARD Crimes.

2 8–201.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) “Cardholder” means the person named on the face of a credit card to whom or
5 for whose benefit the credit card is issued by an issuer.6 (c) (1) “Credit card” means an instrument or device issued by an issuer for the
7 use of a cardholder in obtaining money, goods, services, or anything of value on credit.

8 (2) “Credit card” includes:

9 (i) a debit card, access card, or other device for use by a cardholder
10 to effect a transfer of funds through an electronic terminal, telephone, or computer;11 (ii) a magnetic tape that orders or authorizes a financial institution
12 to debit or credit an account; and13 (iii) a code, account number, or other means of account access that is
14 not encoded or truncated and can be used to:

15 1. obtain money, goods, services, or anything of value; or

16 2. initiate a transfer of funds.

17 (3) “Credit card” does not include:

18 (I) A GIFT CARD; OR

19 (II) a check, draft, or similar paper instrument.

20 (D) (1) “GIFT CARD” MEANS:

21 (I) A PAPER, METAL, PLASTIC, OR DIGITAL INSTRUMENT OR
22 DEVICE, INCLUDING A CARD WITH A MAGNETIC STRIPE, THAT IS ISSUED BY AN
23 ISSUER AND IS ABLE TO BE USED TO PURCHASE, EITHER WHOLLY OR IN PART,
24 MONEY, GOODS, SERVICES, OR ANYTHING OF VALUE THROUGH PRESENTATION OF
25 THE CARD ON WHICH A PREPAID BALANCE OF FUNDS IS STORED; OR26 (II) A TANGIBLE OR INTANGIBLE INSTRUMENT OR DEVICE
27 BEARING A CODE, AN ACCOUNT NUMBER, OR OTHER MEANS OF ACCOUNT ACCESS
28 THAT IS NOT ENCODED OR TRUNCATED AND IS ABLE TO BE USED TO PURCHASE,
29 EITHER WHOLLY OR IN PART, MONEY, GOODS, SERVICES, OR ANYTHING OF VALUE

1 THROUGH PRESENTATION OF THE CODE, ACCOUNT NUMBER, OR ACCOUNT ACCESS
2 THROUGH WHICH A PREPAID BALANCE OF FUNDS IS STORED OR ACCESSIBLE.

3 (2) "GIFT CARD" DOES NOT INCLUDE:

4 (I) A CREDIT CARD;

5 (II) AN ELECTRONIC FUNDS TRANSFER; OR

6 (III) MONEY, A CHECK, A DRAFT, OR ANY SIMILAR PAPER
7 INSTRUMENT.

8 (E) "INTENDED GIFT CARD RECIPIENT" MEANS THE PERSON TO WHOM THE
9 ORIGINAL GIFT CARD PURCHASER INTENDED TO TRANSFER THE RIGHT TO USE THE
10 GIFT CARD.

11 [(d)] (F) "Issuer" means a business organization or financial institution that
12 issues a credit card OR GIFT CARD or the authorized agent of the business organization or
13 financial institution.

14 (G) "ORIGINAL GIFT CARD PURCHASER" MEANS THE PERSON, BUSINESS
15 ORGANIZATION, OR FINANCIAL INSTITUTION THAT PURCHASED THE GIFT CARD.

16 8-204.1.

17 (A) (1) A PERSON MAY NOT, WITH THE INTENT TO DEFRAUD:

18 (I) TAKE A GIFT CARD FROM ANOTHER, OR FROM THE
19 POSSESSION, CUSTODY, OR CONTROL OF ANOTHER, WITHOUT THE CONSENT OF THE
20 ISSUER, ORIGINAL GIFT CARD PURCHASER, OR THE INTENDED GIFT CARD
21 RECIPIENT; OR

22 (II) WITH KNOWLEDGE THAT A GIFT CARD HAS BEEN TAKEN
23 UNDER THE CIRCUMSTANCES DESCRIBED IN ITEM (I) OF THIS PARAGRAPH, RECEIVE
24 THE GIFT CARD WITH THE INTENT TO USE OR SELL THE GIFT CARD OR TRANSFER
25 THE GIFT CARD TO ANOTHER WHO IS NOT THE ISSUER, ORIGINAL GIFT CARD
26 PURCHASER, OR THE INTENDED GIFT CARD RECIPIENT.

27 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF GIFT
28 CARD THEFT.

29 (B) (1) A PERSON MAY NOT RECEIVE A GIFT CARD THAT THE PERSON
30 KNOWS WAS LOST, MISLAID, OR DELIVERED UNDER A MISTAKE AS TO THE IDENTITY
31 OR ADDRESS OF THE ORIGINAL GIFT CARD PURCHASER OR THE INTENDED GIFT

1 CARD RECIPIENT AND RETAIN POSSESSION OF THE GIFT CARD WITH THE INTENT TO
2 USE OR SELL THE GIFT CARD OR TRANSFER THE GIFT CARD TO ANOTHER WHO IS
3 NOT THE ISSUER, ORIGINAL GIFT CARD PURCHASER, OR THE INTENDED GIFT CARD
4 RECIPIENT.

5 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF GIFT
6 CARD THEFT.

7 (C) A PERSON MAY NOT:

8 (1) SELL A GIFT CARD UNLESS THE PERSON IS THE ISSUER OR A
9 PERSON AUTHORIZED BY THE ISSUER TO SELL A GIFT CARD; OR

10 (2) BUY A GIFT CARD FROM A PERSON OTHER THAN THE ISSUER OR A
11 PERSON AUTHORIZED BY THE ISSUER TO SELL A GIFT CARD.

12 (D) A PERSON OTHER THAN THE ISSUER MAY NOT RECEIVE A GIFT CARD
13 THAT THE PERSON KNOWS WAS TAKEN OR RETAINED UNDER CIRCUMSTANCES THAT
14 CONSTITUTE:

15 (1) GIFT CARD THEFT; OR

16 (2) A VIOLATION OF SUBSECTION (C) OF THIS SECTION.

17 (E) (1) A PERSON WHO VIOLATES THIS SECTION WITH RESPECT TO A GIFT
18 CARD WITH A STORED OR ACCESSIBLE BALANCE OF FUNDS OF LESS THAN \$100 IS
19 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT
20 NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH.

21 (2) A PERSON WHO VIOLATES THIS SECTION WITH RESPECT TO A GIFT
22 CARD WITH A STORED OR ACCESSIBLE BALANCE OF FUNDS OF \$100 OR MORE IS
23 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

24 (I) FOR A FIRST CONVICTION, IMPRISONMENT NOT EXCEEDING
25 6 MONTHS OR A FINE NOT EXCEEDING \$500 OR BOTH; AND

26 (II) FOR A SECOND OR SUBSEQUENT CONVICTION,
27 IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$500 OR BOTH.

28 8-205.1.

29 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
30 INDICATED.

1 **(2) “FALSELY EMBOSS” MEANS TO CREATE A GIFT CARD WITHOUT**
2 **THE AUTHORIZATION OF THE ISSUER.**

3 **(3) “FALSELY MAKE” MEANS:**

4 **(I) TO MAKE OR DRAW, WHOLLY OR PARTLY, A DEVICE OR**
5 **INSTRUMENT THAT PURPORTS TO BE A GIFT CARD BUT THAT IS NOT A GIFT CARD**
6 **BECAUSE AN ISSUER DID NOT AUTHORIZE THE MAKING OR DRAWING; OR**

7 **(II) TO ALTER A GIFT CARD THAT WAS VALIDLY ISSUED.**

8 **(B) A PERSON MAY NOT, WITH THE INTENT TO DEFRAUD ANOTHER:**

9 **(1) FALSELY MAKE A PURPORTED GIFT CARD;**

10 **(2) FALSELY EMBOSS A GIFT CARD; OR**

11 **(3) TRANSFER OR POSSESS:**

12 **(I) A FALSELY MADE INSTRUMENT OR DEVICE THAT PURPORTS**
13 **TO BE A GIFT CARD, WITH KNOWLEDGE THAT THE INSTRUMENT OR DEVICE WAS**
14 **FALSELY MADE; OR**

15 **(II) A FALSELY EMBOSSED GIFT CARD WITH KNOWLEDGE THAT**
16 **THE GIFT CARD WAS FALSELY EMBOSSED.**

17 **(C) A PERSON OTHER THAN THE INTENDED GIFT CARD RECIPIENT MAY NOT**
18 **SIGN A GIFT CARD WITH THE INTENT TO DEFRAUD ANOTHER.**

19 **(D) (1) A PERSON WHO VIOLATES THIS SECTION WITH RESPECT TO A**
20 **FALSELY MADE OR FALSELY EMBOSSED GIFT CARD WITH A PURPORTED OR ACTUAL**
21 **STORED OR ACCESSIBLE BALANCE OF FUNDS OF LESS THAN \$100 IS GUILTY OF A**
22 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**
23 **EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH.**

24 **(2) A PERSON WHO VIOLATES THIS SECTION WITH RESPECT TO A**
25 **FALSELY MADE OR FALSELY EMBOSSED GIFT CARD WITH A PURPORTED OR ACTUAL**
26 **STORED OR ACCESSIBLE BALANCE OF FUNDS OF \$100 OR MORE IS GUILTY OF A**
27 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:**

28 **(I) FOR A FIRST CONVICTION, IMPRISONMENT NOT EXCEEDING**
29 **6 MONTHS OR A FINE NOT EXCEEDING \$500 OR BOTH; AND**

1 (II) FOR A SECOND OR SUBSEQUENT CONVICTION,
2 IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$500 OR BOTH.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2025.