

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 437
(Senator Folden)
Judicial Proceedings

Criminal Law – Theft and Fraud Crimes – Valuation and Forgery of Gift Cards

This bill prohibits a person, with the intent of defrauding another, from altering or tampering with a “gift card” or its packaging. Violators are guilty of a misdemeanor and subject to imprisonment for up to 18 months and/or \$500 maximum fine. The bill also establishes a valuation method for gift cards for purposes of the theft statute.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Gift card” means an “open loop gift card” or a “closed loop gift card,” as those terms are defined in § 14-4901 of the Commercial Law Article. It does not include a credit card; an electronic funds transfer; or money, a check, a draft, or any other similar paper instrument.

For purposes of the theft statute, the value of the gift card is the greatest of (1) the value represented on the face of the card; (2) the value that a defendant alleged to have violated Title 7, Subtitle 1 of the Criminal Law Article (Crimes Involving Theft) represented the gift card to be; or (3) the amount of loss incurred by any person involving the use of the gift card.

Current Law:

Definitions under § 14-4901 of the Commercial Law Article

“Open-loop gift card” means a card, code, or device that is (1) 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; (2) payment card network branded; and (3) redeemable on presentation at multiple unaffiliated merchants for goods or services within the payment card network or usable at an automated teller machine.

A “closed-loop gift card” means a card, code, or device that is (1) 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 (2) redeemable on presentation by a consumer at a single merchant or a group of affiliated merchants.

Title 7, Subtitle 1 of the Criminal Law Article

Title 7, Subtitle 1 of the Criminal Law Articles establishes a variety of theft offenses, including general theft. The value of property or services for offenses under Part I of the subtitle must be determined in accordance with § 7-103 of the Criminal Law Article (amended by the bill to address gift cards specifically).

General Theft

Under the general theft statute, a person may not, under specified circumstances, (1) willfully or knowingly obtain or exert unauthorized control over property; (2) obtain control over property by willfully or knowingly using deception; (3) possess stolen property knowing that it has been stolen or believing that it probably has been stolen; (4) obtain control over property knowing that the property was lost, mislaid, or delivered under a mistake as to the identity of the recipient or nature or amount of the property; or (5) obtain the services of another that are available only by compensation by deception or with knowledge that the services are provided without the provider’s consent. A violator is required to restore the owner’s property or pay the owner the value of the property or services and is subject to the penalties in **Exhibit 1**.

Generally, “value” means the market value of the property or service at the time and place of the crime or if the market value cannot satisfactorily be ascertained, the cost of the replacement of the property or service within a reasonable time after the crime.

Exhibit 1

Penalties for General Theft

<u>Value of Property and/or Services</u>	<u>Maximum Penalty</u>
Less than \$100*	Misdemeanor – 90 days imprisonment and/or \$500 fine
At least \$100 but less than \$1,500*	Misdemeanor – 6 months imprisonment and/or \$500 fine (first conviction) or 1 year imprisonment and/or \$500 fine (second or subsequent conviction)
Less than \$1,500 (four or more prior theft convictions)**	Misdemeanor – 5 years imprisonment and/or \$5,000 fine
At least \$1,500 but less than \$25,000	Felony – 5 years imprisonment and/or \$10,000 fine
At least \$25,000 but less than \$100,000	Felony – 10 years imprisonment and/or \$15,000 fine
\$100,000 or more	Felony – 20 years imprisonment and/or \$25,000 fine

* Subject to two-year statute of limitations.

** Subject to specified notice requirements.

Source: Department of Legislative Services

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 752 (Delegate Toles, *et al.*) - Economic Matters.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

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