

MARYLAND RETAILERS ALLIANCE

The Voice of Retailing in Maryland



SB874 Criminal Law - Gift Card Crimes

House Judiciary Committee

February 26, 2025

Position: Favorable

Summary: Prohibiting a person from taking a certain gift card from another or receiving a gift card with the intent to use, sell, or transfer the gift card in a certain manner; prohibiting a person from receiving a gift card that the person knows was lost, mislaid, or delivered under a mistake and retaining possession in a certain manner; prohibiting a person from selling and buying a gift card under certain circumstances; etc.

Written Comments: The Maryland Retailers Alliance writes in strong support of **HB1074 Criminal Law – Gift Card Crimes**. Though the Gift Scams Prevention Act of 2024 has established a new packaging regime to help tackle the ever-growing issue of gift card fraud, it does not address the remaining issue that retailers face in situations of gift card theft: retailers struggle to pursue cases against perpetrators of gift card theft under current law because gift cards have no monetary value before they are activated. HB1074 would explicitly prohibit theft of gift cards with the intent to commit fraud, and would categorize such theft as a misdemeanor crime. This would allow retailers, law enforcement, and prosecution teams to further address the issue of gift card scams with the ability to pursue perpetrators of theft.

Gift card fraud can fall into several categories of theft schemes:

1. The perpetrator uses one of several fraud techniques to directly acquire a card, such as using a stolen credit card to buy a gift card.
2. The perpetrator adds an innocent shell to the scheme who is tricked into buying the card with the shell's money.
3. The focus of the fraud switches to stealing an existing card, or the funds thereon, out from under an innocent cardholder.
4. The fraudster attacks the card balance limit by scamming below the limit at retailers who elect not to authorize cards or by fraudulently beating the limit on large purchases.
5. The perpetrator goes straight to the heart of the matter and uses of counterfeit codes or instruments.
6. The card is purchased as a part of illicit or money laundering activities.

7. The fraud's focus is switched from the gift card to identity theft with the perpetrator seeking personal identifiable information on cardholders for later illicit purposes.

Because at this time there is very little retailers, law enforcement and prosecutors can do to address these types of crimes, we urge the legislature to take action by supporting this important piece of legislation before you.