WEST VIRGINIA LEGISLATURE 2024 REGULAR SESSION

Introduced

Senate Bill 403

By Senators Deeds, Caputo, Hunt, Rucker, Stover,
Takubo, Taylor, Chapman, Hamilton, Plymale,
Woodrum, and Maroney

[Introduced January 12, 2024; referred to the Committee on the Judiciary]

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1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, 2 designated §61-17-1, §61-17-2, §61-17-3, §61-17-4, and §61-17-5, all relating to gift card fraud; legislative findings; definitions; required notices; employee training; and 3 4 misdemeanor penalties. Be it enacted by the Legislature of West Virginia: 17. CARD ARTICLE GIFT FRAUD. §61-17-1. Legislative findings. 1 (a) The Legislature finds that gift card fraud is a persistent and growing form of fraud, with 2 73 million U.S. adults experiencing some form of gift card fraud in 2022. Most Americans, 3 including 81% of those ages 50 and older, believe scams and fraud have reached a crisis level. 4 and 89 percent of all consumers agree, with 61 percent saying they strongly agree that lawmakers 5 need to do more to protect consumers from fraud and scams. §61-17-2 Definitions. 1 For the purposes of this section: 2 "Gift card" " means a written promise or electronic payment device that: (1) Is usable at a 3 single merchant or an affiliated group of merchants that share the same name, mark, or logo, or is 4 usable at multiple, unaffiliated merchants or service providers; (2) Is issued in a specific amount; 5 (3) May or may not be increased in value or reloaded; (4) Is purchased and/or loaded on a prepaid 6 basis for the future purchase or delivery of any goods or services; and (5) Is honored upon 7 presentation. §61-17-3. Required notices. 1 (a) No person, firm, partnership, association, or corporation may sell a gift certificate to a 2 purchaser unless the seller displays a conspicuous notice, in a form prescribed by the department 3 of business regulation, at or near where the gift card is displayed and at or near the physical 4 location where the sale occurs, that: (1) Cautions the purchaser about prepaid card scams; and (2)

Instructs the	purchaser	on what to	do if the	ey suspec	t they	might	be a	potential	victim	of s	such	а
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scam.												

(b) Notice -- The notice shall be provided as follows: (1) Where a person, firm, partnership, association, or corporation has an electronic payment system screen, notice may be given on such screen to the purchaser before finalizing payment; or (2) Where a person, firm, partnership, association, or corporation does not have an electronic payment system screen or does not wish to provide notice on their electronic payment system screen, notice shall be posted in a conspicuous manner in the location where the sale occurs.

(c) Sample notice language: "Protect yourself from prepaid card scams; including requests related to lotteries, taxes, employment status or utility payments. Do not provide any prepaid card information to someone you do not know, including pin number or card number. If you feel that you are a victim of fraud, contact local law enforcement."

§61-17-4. Employee training.

Every retail mercantile establishment in this state that displays gift cards for sale shall train employees on how to identify and respond to gift card fraud. A retail mercantile establishment shall conduct the training in accordance with guidelines concerning the detection and prevention of gift card fraud provided by the Director of the Division of Consumer Affairs, in consultation with the Attorney General.

The guidelines shall include, but not be limited to: (1) Information raising public awareness of the prevalence of gift card fraud; (2) Information concerning common gift card fraud schemes; and (3) Best practices for retail mercantile establishments to prevent gift card fraud.

The guidelines shall be published on the Internet websites of the Consumer Protection division, within the Attorney General's office, and updated periodically, as necessary.

(f) Sample best practices. (1)Prominently post and maintain signs near cash registers and/or gift card stands to warn customers about gift card fraud; (2) Limit the number and dollar amount of gift cards that may be purchased at one time; (3) Encourage payments for gift cards via

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credit card, which can be more easily tracked and cancelled in the event a fraud is subsequently

discovered; and (4) Limit purchases and activation of gift cards to cash registers staffed by an

16 employee, instead of allowing purchases and activation at self-checkout stands.

§61-17-5. Penalties.

Any person, firm, partnership, association, corporation or retail mercantile establishment

- 2 that violates the provisions of this section is guilty of a misdemeanor, and upon conviction thereof,
- 3 shall be fined not more than \$250.

NOTE: The purpose of this bill is to define gift card fraud, with legislative findings; definitions; required notices; employee training; and misdemeanor penalties

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

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