

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 267**

4 (By Senators Palumbo, Kessler (Mr. President), Cookman and
5 Fitzsimmons)

6 _____
7 [Originating in the Committee on the Judiciary;
8 reported January 29, 2014.]
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10
11 A BILL to amend and reenact §6-9-2c of the Code of West Virginia,
12 1931, as amended; and to amend and reenact §12-3-10b of said
13 code, all relating to fraudulent or unauthorized use of
14 purchasing cards; ensuring that the courts of West Virginia
15 have jurisdiction over fraudulent or unauthorized use of
16 purchasing cards; establishing jurisdiction; defining the
17 conduct as a continuing offense; adjusting the penalties such
18 that a conviction is punished the same as a larceny
19 conviction; and allowing for restitution.

20 *Be it enacted by the Legislature of West Virginia:*

21 That §6-9-2c of the Code of West Virginia, 1931, as amended,
22 be amended and reenacted; and that §12-3-10b of said code be
23 amended and reenacted, all to read as follows:

24 **CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.**

25 **ARTICLE 9. SUPERVISION OF LOCAL GOVERNMENT OFFICES.**

1 **§6-9-2c. Fraudulent or unauthorized use of purchasing card**
2 **prohibited; penalties.**

3 It is unlawful for any person to use a local government
4 purchasing card, issued in accordance with the provisions of
5 section two-a of this article, to make any purchase of goods or
6 services in a manner which is contrary to the provisions of section
7 two-a of this article or the rules promulgated pursuant to that
8 section: Provided, That such action is a continuing offense
9 beginning when the purchasing card is issued or obtained by the
10 person and that jurisdiction to prosecute rests with any county
11 where the card was issued, obtained, used fraudulently, used
12 without authorization or where any substantial or material element
13 of the offense occurred. Any person who violates the provisions of
14 this section is guilty of ~~a felony~~ larceny and, upon conviction
15 thereof, shall be ~~confined in a state correctional facility not~~
16 ~~less than one year nor more than five years, or fined no more than~~
17 ~~\$5,000, or both fined and imprisoned.~~ subject to the penalties
18 contained in section thirteen, article three, chapter sixty-one of
19 this code, with the value of goods calculated by the cumulative
20 amount of the cost of goods or services purchased in violation of
21 section two-a of this article or the rules promulgated pursuant to
22 that section. Any person convicted of a violation of this section
23 shall be subject to an order of restitution.

24 **CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

25 **ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.**

1 **§12-3-10b. Fraudulent or unauthorized use of purchasing card**
2 **prohibited; penalties.**

3 It is unlawful for any person to use a state purchase card,
4 issued in accordance with the provisions of section ten-a of this
5 article, to make any purchase of goods or services in a manner
6 which is contrary to the provisions of section ten-a of this
7 article or the rules promulgated pursuant to that section:
8 Provided, That such action is a continuing offense beginning when
9 the purchasing card is issued or obtained by the person and that
10 jurisdiction to prosecute rests with any county where the card was
11 issued, obtained, used fraudulently, used without authorization or
12 where any substantial or material element of the offense occurred.
13 Any person who violates the provisions of this section is guilty of
14 ~~a felony~~ larceny and, upon conviction thereof, shall be ~~imprisoned~~
15 ~~in the penitentiary not less than one year nor more than five~~
16 ~~years, or fined no more than \$5,000, or both fined and imprisoned.~~
17 subject to the penalties contained in section thirteen, article
18 three, chapter sixty-one of this code, with the value of goods
19 calculated by the cumulative amount of the cost of goods or
20 services purchased in violation of section ten-a of this article or
21 the rules promulgated pursuant to that section. Any person
22 convicted of a violation of this section shall be subject to an
23 order of restitution.