

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4990**

By Delegates Brooks, Martin, Vance, Kyle, Roop,  
Mallow, Marple, Hornby, Pritt, Ferrell, and B. Smith

[Originating in the Committee on the Judiciary;

Reported on February 13, 2026]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §61-4A-1 and §61-4A-2, relating to providing definitions; and creating new  
3 misdemeanor and felony crimes relating to gift cards and creating criminal penalties and  
4 fines for these newly created crimes.

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

**ARTICLE 4A. CRIMES INVOLVING GIFT CARDS.**

**§61-4A-1. Definitions.**

1 (a) As used in this article:

2 "Cardholder" means any person or party to whom a physical or virtual gift card is issued  
3 through a purchase, or receives a gift card from a willing party.

4 "Card issuer" means any person that issues a gift card or the agent of that person with  
5 respect to that card.

6 "Closed-Loop Gift Card" means a card, code, or device that is issued to a consumer on a  
7 prepaid basis primarily for personal, family, or household purposes in a specified amount,  
8 regardless of whether that amount may be increased or reloaded in exchange for payment; and is  
9 redeemable upon presentation by a consumer at a single merchant or group of affiliated  
10 merchants.

11 "Gift Card" means a physical or digital "closed-loop gift card" or "open-loop gift card" that is  
12 either activated or inactivated.

13 "Gift Card Redemption Information" means information unique to each gift card which  
14 allows the cardholder to access, transfer, or spend the funds on that gift card.

15 "Open-Loop Gift Card" means a card, code, or device that is issued to a consumer on a  
16 prepaid basis primarily for personal, family, or household purposes in a specified amount,  
17 regardless of whether that amount may be increased or reloaded in exchange for payment; and is  
18 redeemable upon presentation at multiple unaffiliated merchants for goods or services within the  
19 payment card network.

20 "Gift Card Seller" means a merchant that is engaged in the business of selling open-loop or  
21 closed-loop gift cards to consumers.

22 "Value" means the greatest amount of economic loss the owner of the property might  
23 reasonably suffer including, in the case of a gift card, the full monetary face value or potential value  
24 for variable load gift cards.

**§61-4A-2. Crimes involving gift cards.**

1 (a) Any person who, with intent to defraud any other person or entity, acquires or retains  
2 possession of a gift card or gift card redemption information without the consent of the cardholder,  
3 card issuer, or gift card seller is guilty of the misdemeanor crime of petit larceny of a gift card and  
4 upon conviction thereof, shall be confined in jail for a term not to exceed one year or fined not more  
5 than \$1,000, or both.

6 (b) Notwithstanding the provisions of subsection (a) of this section, any person who, with  
7 intent to defraud any other person or entity, acquires or retains possession of a gift card or gift card  
8 redemption information without the consent of the cardholder, card issuer, or gift card seller and  
9 the value exceeds \$1,000 in any consecutive six month period is guilty of the felony crime of grand  
10 larceny of a gift card in excess of \$1,000 and upon conviction thereof shall be imprisoned in a state  
11 correctional facility for not less than one nor more than ten years, or, in the discretion of the court,  
12 be confined in jail not more than one year and shall be fined not more than \$2,500. The provisions  
13 of this subsection are a separate and distinct criminal offense from the provisions of subsection (a)  
14 of this section.

15 (c) Any person who, with intent to defraud any other person or entity, alters or tampers with  
16 a gift card or its packaging is guilty of the misdemeanor crime of forgery of a gift card and upon  
17 conviction thereof shall be confined in jail for a term not to exceed one year or fined not more than  
18 \$1,000, or both.

19 (d) Notwithstanding the provisions of subsection (c) of this section, any person who, with

20 intent to defraud any other person or entity, alters or tampers with a gift card or its packaging and  
21 the value exceeds \$1,000 in any consecutive six month period is guilty of the felony crime of  
22 forgery of a gift card in excess of \$1,000 and upon conviction thereof shall be imprisoned in a state  
23 correctional facility for not less than one nor more than ten years, or, in the discretion of the court,  
24 be confined in jail not more than one year and shall be fined not more than \$2,500. The provisions  
25 of this subsection are a separate and distinct criminal offense from the provisions of subsection (c)  
26 of this section.

27 (e) Any person who, with intent to defraud any other person or entity, devises a scheme to  
28 obtain a gift card or gift card redemption information from a card holder, card issuer, or gift card  
29 seller by means of false or fraudulent pretenses, representations, or promises, is guilty of the  
30 misdemeanor crime of forgery of a gift card and upon conviction thereof shall be confined in jail for  
31 a term not to exceed one year or fined not more than \$1,000, or both.

32 (f) Notwithstanding the provisions of subsection (e) of this section, any person who, with  
33 intent to defraud any other person or entity, devises a scheme to obtain a gift card or gift card  
34 redemption information from a card holder, card issuer, or gift card seller by means of false or  
35 fraudulent pretenses, representations, or promises, and the value exceeds \$1,000 in any  
36 consecutive six month period, is guilty of the felony crime of forgery involving a gift card in excess  
37 of \$1,000 and upon conviction thereof, shall be imprisoned in a state correctional facility for not  
38 less than one nor more than ten years, or in the discretion of the court, be confined in jail not more  
39 than one year and shall be fined not more than \$2,500. The provisions of this subsection are a  
40 separate and distinct criminal offense from the provisions of subsection (e) of this section.

NOTE: The purpose of this bill is to create the crime of gift card fraud, providing definitions, and establishing punishments.

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