

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 267**

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

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[Originating in the Committee on the Judiciary;  
reported January 29, 2014.]

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A BILL to amend and reenact §6-9-2c of the Code of West Virginia, 1931, as amended; and to amend and reenact §12-3-10b of said code, all relating to fraudulent or unauthorized use of purchasing cards; ensuring that the courts of West Virginia have jurisdiction over fraudulent or unauthorized use of purchasing cards; establishing jurisdiction; defining the conduct as a continuing offense; adjusting the penalties such that a conviction is punished the same as a larceny conviction; and allowing for restitution.

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

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

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

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

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

1 It is unlawful for any person to use a local government  
2 purchasing card, issued in accordance with the provisions of  
3 section two-a of this article, to make any purchase of goods  
4 or services in a manner which is contrary to the provisions of  
5 section two-a of this article or the rules promulgated pursuant  
6 to that section: Provided, That such action is a continuing  
7 offense beginning when the purchasing card is issued or  
8 obtained by the person and that jurisdiction to prosecute rests  
9 with any county where the card was issued, obtained, used  
10 fraudulently, used without authorization or where any

11 substantial or material element of the offense occurred. Any  
12 person who violates the provisions of this section is guilty of a  
13 ~~felony~~ larceny and, upon conviction thereof, shall be ~~confined~~  
14 ~~in a state correctional facility not less than one year nor more~~  
15 ~~than five years, or fined no more than \$5,000, or both fined and~~  
16 ~~imprisoned.~~ subject to the penalties contained in section  
17 thirteen, article three, chapter sixty-one of this code, with the  
18 value of goods calculated by the cumulative amount of the cost  
19 of goods or services purchased in violation of section two-a of  
20 this article or the rules promulgated pursuant to that section.  
21 Any person convicted of a violation of this section shall be  
22 subject to an order of restitution.

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

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

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

1 It is unlawful for any person to use a state purchase card,  
2 issued in accordance with the provisions of section ten-a of

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