

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 267

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

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

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.