

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Introduced**

**House Bill 2799**

By Delegate Howell

[Introduced January 18, 2023; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §61-3-24 of the Code of West Virginia, 1931, as amended, to impose  
 2 criminal liability and penalties upon purchasers of goods for delivery who refuse to return  
 3 rejected goods to the vendor after the purchaser has had their purchase money  
 4 reimbursed.

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

**ARTICLE 3. CRIMES AGAINST PROPERTY.**

**§61-3-24. Obtaining money, property and services by false pretenses; disposing of property to defraud creditors or vendors; penalties.**

1 (a)(1) If a person obtains from another by any false pretense, token or representation, with  
 2 intent to defraud, any money, goods or other property which may be the subject of larceny; or

3 (2) If a person obtains on credit from another any money, goods or other property which  
 4 may be the subject of larceny, by representing that there is money due him or her or to become  
 5 due him or her, and assigns the claim for such money, in writing, to the person from whom he or  
 6 she obtains such money, goods or other property, and afterwards collects the money due or to  
 7 become due, without the consent of the assignee, and with the intent to defraud;

8 (3) Such person is guilty of larceny. If the value of the money, goods or other property is  
 9 \$1,000 or more, such person is guilty of a felony, and, upon conviction thereof, shall be imprisoned  
 10 in the penitentiary not less than one year nor more than ten years, or, in the discretion of the court,  
 11 be confined in jail not more than one year and be fined not more than \$2,500. If the value of the  
 12 money, goods or other property is less than \$1,000, such person is guilty of a misdemeanor, and,  
 13 upon conviction thereof, shall be confined in jail not more than one year or fined not more than  
 14 \$2,500, or both.

15 (b) If a person obtains by any false pretense, token or representation, with intent to  
 16 defraud, the signature of another to a writing, the false making of which would be forgery, the  
 17 person is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not  
 18 less than one year nor more than five years, or, in the discretion of the court, be confined in jail not

19 more than one year and fined not more than \$2,500.

20 (c)(1) If a person removes any of his or her property out of any county with the intent to  
21 prevent the same from being levied upon by any execution; or

22 (2) If a person secretes, assigns or conveys, or otherwise disposes of any of his or her  
23 property with the intent to defraud any creditor or to prevent the property from being made liable for  
24 payment of debts; or

25 (3) If a person receives the property of another, including any goods purchased by remote  
26 transaction for delivery and paid via a commercial creditor or third party payment service, with the  
27 intent to: (A) defraud any creditor or vendor; or (B) to prevent the property from being returned to  
28 the vendor after purchaser secures reimbursement of money paid to a vendor from a commercial  
29 creditor or third party payment service for any goods purchased by remote transaction for delivery  
30 from the vendor; or (C) to prevent the property from otherwise being made liable for the payment of  
31 debts;

32 (4) The person is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not  
33 more than \$2,500 and be confined in jail not more than one year: Provided, That for any good not  
34 returned to a vendor after purchaser has secured reimbursement of money paid to the vendor from  
35 a commercial creditor or third party payment service for a good purchased by remote transaction  
36 for delivery, the person failing to return the property to vendor shall additionally make criminal  
37 restitution to the vendor in an amount equal to treble the value of the purchase price of the  
38 property.

39 (d) If a person, firm or corporation obtains labor, services or any other such thing of value  
40 from another by any false pretense, token or representation, with intent to defraud, the person, firm  
41 or corporation is guilty of theft of services. If the value of the labor, services or any other such thing  
42 of value is \$1,000 or more, the person, firm or corporation is guilty of a felony, and, upon conviction  
43 thereof, shall be imprisoned in the penitentiary not less than one year nor more than ten years, or,  
44 in the discretion of the court, be confined in jail not more than one year and be fined not more than

45 \$2,500. If the value of the labor, services or any other such thing of value is less than \$1,000, the  
46 person, firm or corporation is guilty of a misdemeanor, and, upon conviction thereof, shall be  
47 confined in jail not more than one year or fined not more than \$2,500, or both, in the discretion of  
48 the court.

49 (e) Theft of services includes the obtaining of a stop payment order on a check, draft or  
50 order for payment of money owed for services performed in good faith and in substantial  
51 compliance with a written or oral contract for services, with the fraudulent intent to permanently  
52 deprive the provider of such labor, services or other such thing of value of the payment  
53 represented by such check, draft or order. Notwithstanding the penalties set forth elsewhere in this  
54 section, any person, firm or corporation violating the provisions of this subsection is guilty of a  
55 misdemeanor, and, upon conviction thereof, shall be fined not more than two times the face value  
56 of the check, draft or order.

57 (f) Prosecution for an offense under this section does not bar or otherwise affect adversely  
58 any right or liability to damages, forfeiture or other civil remedy arising from any or all elements of  
59 the criminal offense.

NOTE: The purpose of this bill is to impose criminal liability and penalties upon purchasers of goods for delivery who refuse to return rejected goods to the vendor after the purchaser has had their purchase money reimbursed.

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