

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5250

By Delegates Kelly, Kump, Westfall, Shamblin,

Hillenbrand, Toney and Hott

[Introduced January 26, 2024; Referred to the

Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §46A-9-1, §46A-9-2, §46A-9-3, §46A-9-4, and §46A-9-5, all relating to defining
 3 terms, establishing required notices, and describing necessary training to combat gift card
 4 fraud as well as describing the penalties associated with violating these provisions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. COMBATTING GIFT CARD FRAUD.

<u>§46A-9-1.</u>	<u>Legislative</u>	<u>findings.</u>
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1 The Legislature finds that gift card fraud is a persistent and growing form of fraud, with 73
 2 million U.S. adults experiencing some form of gift card fraud in 2022.

3 Most Americans, including 81% of those aged 50 and older, believe scams and fraud have
 4 reached a crisis level.

5 Scammers ask consumers to pay for a variety of false financial obligations using a gift
 6 card, including to claim a large prize, sweepstakes, or lottery. The scams may also include asking
 7 someone to pay an upfront fee for a product or service or do a favor for a friend or someone at
 8 work.

9 89% of all consumers agree, with 61% saying they strongly agree, that lawmakers need to
 10 do more to protect consumers from fraud and scams.

§46A-9-2. Definitions.

1 As used in this article, "gift card" means a written promise or electronic payment device
 2 that:

3 (1) Is usable at a single merchant or affiliated group of merchants that share the same
 4 name, mark;

5 (2) Is issued in a specific amount;

6 (3) May or may not be increased in value or reloaded;

7 (4) Is purchased and loaded, or solely purchased or loaded, on a prepaid basis for the
 8 future purchase or delivery of any goods or services; or

9 (5) Is honored upon presentation.

§46A-9-3. Required Notices

1 (a) No person, firm, partnership, association, or corporation shall sell gift a gift certificate to
2 a purchaser unless the seller displays, in a conspicuous place and in letters of appropriate size for
3 easy reading, a form of notice prescribed by the Secretary of State at or near where the gift card is
4 displayed and at or near the physical location where the sale occurs. The form shall:

5 (1) Caution the purchaser about prepaid card scams; and

6 (2) Instruct the purchaser on what to do if they suspect they might be a potential victim of
7 such a scam.

8 (b) The notice shall be provided as follows:

9 (1) Where a person, firm, partnership, association, or corporation has an electronic
10 payment system screen, the notice may be given on such screen to the purchaser before finalizing
11 payment; or

12 (2) Where a person, firm, partnership, association, or corporation does not have an
13 electronic payment screen or does not wish to provide notice on their electronic payment system
14 screen, the notice shall be posted in a conspicuous manner in the location where the sale occurs.

15 (3) Example of appropriate notice: Protect yourself from prepaid card scams; including
16 requests related to lotteries, taxes, employment status or utility payments. Do not provide any
17 prepaid card information to someone you do not know, including pin number or card number. If you
18 feel that you are a victim of fraud, contact local law enforcement.

§46A-9-4. Employee Training.

1 (a) Every retail mercantile establishment in this state that displays gift cards for sale shall
2 train employees on how to identify and respond to gift card fraud. A retail mercantile establishment
3 shall conduct the training in accordance with guidelines concerning the detection and prevention
4 of gift card fraud provided by the Director of the Consumer Protection and Anti-Trust Division, in
5 consultation with the Attorney General.

- 6 (b) The guidelines shall include, but are not limited to:
- 7 (1) Information raising public awareness of the prevalence of gift card fraud;
- 8 (2) Information concerning common gift card fraud schemes; and
- 9 (3) Best practices for retail, mercantile establishments to prevent gift card fraud.
- 10 (c) Samples of best practices can include, but are not limited to:
- 11 (1) Prominently posting and maintaining signs near cash registers and gift card stands to
- 12 warn customers about gift card fraud.
- 13 (2) Limiting the number and dollar amount of gift cards that may be purchased at one time.
- 14 (3) Encouraging payments for gift cards via credit card, which can be more easily tracked
- 15 and cancelled in the event a fraud is subsequently discovered.
- 16 (4) Limiting purchases and activation of gift cards to cash registers staffed by an employee,
- 17 instead of allowing purchases and activation at self-checkout stands.

§46A-9-5. Penalties.

1 Any person, firm, partnership, association, corporation, or retail, mercantile establishment
2 that violates the provision of this chapter shall be subject to a civil penalty of up to \$250.

NOTE: The purpose of this bill is to define terms, establish required notices, and describe necessary training to combat gift card fraud as well as describe the penalties associated with violating these provisions.

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