

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5390

By Delegates Steele, McGeehan, C. Pritt, Fluharty,
Garcia, Young, Kirby, Akers, Rowe, Smith, and E. Pritt

[Introduced January 31, 2024; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §61-3C-13 of the West Virginia Code, 1931, as amended, to
 2 proscribe a new penalty that is subject to the value limitations, and to provide for
 3 calculation of the value of the criminal act in determining the appropriate sentence.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3C. WEST VIRGINIA COMPUTER CRIME AND ABUSE ACT.

§61-3C-13. Fraud and related activity in connection with access devices.

1 (a) As used in this section, the following terms shall have the following meanings:

2 (1) "Access device" means any card, plate, code, account number, or other means of
 3 account access that can be used, alone or in conjunction with another access device, to obtain
 4 money, goods, services, or any other thing of value, or that can be used to initiate a transfer of
 5 funds (other than a transfer originated solely by paper instrument);

6 (2) "Counterfeit access device" means any access device that is counterfeit, fictitious,
 7 altered, or forged, or an identifiable component of an access device or a counterfeit access
 8 device;

9 (3) "Unauthorized access device" means any access device that is lost, stolen, expired,
 10 revoked, canceled, or obtained without authority;

11 (4) "Produce" includes design, alter, authenticate, duplicate, or assemble;

12 (5) "Traffic" means transfer, or otherwise dispose of, to another, or obtain control of with
 13 intent to transfer or dispose of.

14 (b) Any person who knowingly and willfully possesses any counterfeit or unauthorized
 15 access device shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not
 16 more than one thousand dollars or confined in the county jail for not more than six months, or
 17 both.

18 (c) Any person who knowingly, willfully and with intent to defraud possesses a counterfeit
 19 or unauthorized access device or who knowingly, willfully and with intent to defraud, uses,
 20 produces or traffics in any counterfeit or unauthorized access device shall be guilty of a felony a

21 ~~larceny and, upon conviction thereof, shall be fined not more than ten thousand dollars or~~
22 ~~imprisoned in the penitentiary for not more than ten years, or both~~ For purposes of this section, the
23 value of the use of said access device, whether counterfeit or unauthorized, shall be calculated in
24 the aggregate rather than for each individual use of said access device. Upon conviction thereof,
25 and a finding of the aggregate value of the use of said access device, the defendant shall be
26 sentenced in accordance with the provisions of §61-3-13 of this code, as the subsections thereof
27 apply to the value of the larceny.

28 (d) In determining the aggregate value, the value of all transactions from the use of multiple
29 access devices attributed to a single victim, be they counterfeit or unauthorized, shall be used to
30 determine the total value of the larceny.

31 ~~(d)~~ (e) This section shall not prohibit any lawfully authorized investigative or protective
32 activity of any state, county or municipal law-enforcement agency.

NOTE: The purpose of this bill is to proscribe a new penalty that is subject to the value limitations of W. Va. Code §61-3-13, that the sentence provided for in subsection (c) be amended to become the exact same sentence for a violation of W. Va. Code §61-3-13, and to provide for calculation of the value of the criminal act in determining the appropriate sentence.

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