WEST VIRGINIA CODE CHAPTER 61 ARTICLE 4A

WV Legislature

§61-4A-1. Definitions.

As used in this article:

"Cardholder" means any person or party to whom a physical or virtual gift card is issued through a purchase or receives a gift card from a willing party.

"Card issuer" means any person that issues a gift card or the agent of that person with respect to that card.

"Closed-Loop Gift Card" means a card, code, or device that is issued to a consumer on a prepaid basis for goods, services, or credits in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment; and is redeemable upon presentation by a consumer at a single merchant or group of affiliated merchants.

"Gift Card" means a physical or digital "closed-loop gift card" or "open-loop gift card" that is either activated or inactivated.

"Gift Card Redemption Information" means information unique to each gift card which allows the cardholder to access, transfer, or spend the funds on that gift card.

"Gift Card Seller" means a merchant that is engaged in the business of selling open-loop or closed-loop gift cards to consumers.

"Open-Loop Gift Card" means a card, code, or device that is issued to a consumer on a prepaid basis for goods, services, or credits in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment; and is redeemable upon presentation at multiple unaffiliated merchants for goods or services within the payment card network.

"Value" means the monetary amount obtained, transferred, or redeemed using the gift card or the monetary amount attempted to be obtained, transferred, or redeemed using the gift card.

WV Legislature

§61-4A-2. Larceny involving gift cards.

(a) Any person who, with the intent to defraud any other person or entity, acquires or retains possession of a gift card or gift card redemption information without the consent of the cardholder, card issuer, or gift card seller and the value of the gift card or gift cards is less than $1,000 is guilty of the misdemeanor offense of petit larceny involving gift cards and upon conviction thereof shall be confined in jail for a term not to exceed one year or fined not more than $1,000, or both fined and confined.

(b) Any person who, with the intent to defraud any other person or entity, acquires or retains possession of a gift card or gift card redemption information without the consent of the cardholder, card issuer, or gift card seller and the value of the gift card or gift cards is greater than $1,000 is guilty of the felony offense of grand larceny involving gift cards and upon conviction thereof shall be imprisoned in a state correctional facility for a term not less than a year nor more than 10 years, or fined not more than $2,500, or both fined and imprisoned.

WV Legislature

§61-4A-3. Tampering involving gift cards.

(a) Any person who, with the intent to defraud any other person or entity, alters or tampers with a gift card or its packaging and the value of the gift card or gift cards is less than $1,000 is guilty of the misdemeanor crime of tampering with a gift card and upon conviction thereof shall be confined in jail for a term not to exceed one year or fined not more than $1,000, or both fined and confined.

(b) Any person who, with the intent to defraud any other person or entity, alters or tampers with a gift card or its packaging and the value of the gift card or gift cards is greater than $1,000 is guilty of the felony crime of tampering with a gift card and upon conviction thereof shall be imprisoned in a state correctional facility for a term not less than a year nor more than 10 years, or fined not more than $2,500, or both fined and imprisoned.

(c) In determining the value of the gift card or gift cards in subsections (a) and (b) of this section, it is permissible to cumulate the value of multiple gift cards when such gift cards are part of a common scheme or plan.

WV Legislature

§61-4A-4. False pretenses involving gift cards.

(a) Any person who, with intent to defraud any other person or entity, devises a scheme to obtain a gift card or gift card redemption information from a card holder, card issuer, or gift card seller by means of false or fraudulent pretenses, representations, or promises, and the value of the gift card or gift cards is less than $1,000 is guilty of the misdemeanor crime of false pretenses involving a gift card and upon conviction thereof shall be confined in jail for a term not to exceed one year or fined not more than $1,000, or both fined and confined.

(b) Any person who, with intent to defraud any other person or entity, devises a scheme to obtain a gift card or gift card redemption information from a card holder, card issuer, or gift card seller by means of false or fraudulent pretenses, representations, or promises, and the value of the gift card or gift cards is greater than $1,000 is guilty of the felony crime of false pretenses involving a gift card and upon conviction thereof shall be imprisoned in a state correctional facility for not less than a year nor more than 10 years, or fined not more than $2,500, or both fined and imprisoned.

(c) In determining the value of the gift card or gift cards in subsections (a) and (b) of this section, it is permissible to cumulate the value of multiple gift cards when such gift cards are part of a common scheme or plan.

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