

House Bill 1113

By: Representatives Heard of the 104th, Rynders of the 152nd, Houston of the 170th, Morris of the 155th, Royal of the 171st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia
2 Annotated, relating to general authority, duties, and procedure with regard to state
3 purchasing, so as to provide definitions; to provide for the requirements of a state purchasing
4 card program; to provide penalties for violators; to authorize the promulgation of rules and
5 regulations; to provide for related matters; to provide for effective dates and applicability;
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated,
10 relating to general authority, duties, and procedure with regard to state purchasing, is
11 amended by adding a new Code section to read as follows:

12 "50-5-83.

13 (a) As used in this Code section, the term:

14 (1) 'Department' means the Department of Administrative Services.

15 (2) 'Purchasing card' means a credit or debit card issued by a credit card company, bank,
16 or other financial institution and provided by the State of Georgia or any of its
17 departments or agencies under the State of Georgia Purchasing Card Program to state
18 employees for the purpose of making purchases on behalf of such departments or
19 agencies or the state.

20 (b) Any purchasing card program established by the department or by any other
21 department or agency of the state shall conform to the following requirements:

22 (1) Purchasing cards shall only be issued to state employees whose job duties require the
23 use of a purchasing card;

24 (2) Each department or agency of the state that allows the use of purchasing cards by its
25 employees shall develop policies and procedures consistent with guidelines developed

- 1 by the department pursuant to this Code section to identify those job positions within
2 each department or agency of the state that would require the use of a purchasing card;
- 3 (3) Each employee receiving a purchasing card shall be required to sign an ethical
4 behavior agreement for the use of the card which shall be developed by the department;
- 5 (4) Each department or agency of the state that allows its employees to use purchasing
6 cards shall provide for the review of all purchases on such cards, shall maintain receipts
7 for each purchase, and shall maintain a log showing each purchase, the relevant vendor's
8 name, the item purchased, the date of the purchase, the amount of the purchase, the name
9 of the employee making the purchase, and any other information that shall be specified
10 by the department;
- 11 (5) Purchases made on purchasing cards shall be reviewed and approved by supervisory
12 personnel at least quarterly;
- 13 (6) Purchasing cards shall not be used for items over \$5,000.00 unless the item is:
- 14 (A) Purchased pursuant to a valid state contract; and
15 (B) Purchased in compliance with state procurement policy;
- 16 (7) Purchasing cards shall not be used to purchase gift cards;
- 17 (8) Any rebates or refunds from vendors, banks, or other financial institutions for
18 purchases or the use of purchasing cards shall be the property of the state and shall be
19 paid promptly into the state treasury;
- 20 (9) To the extent possible, purchasing cards should be used that do not allow the user to
21 purchase gift cards, alcoholic beverages, tobacco products, or personal items that are not
22 job related and state contracts for purchasing cards should contain such prohibitions on
23 the use of such purchasing cards;
- 24 (10) The department shall develop a training manual on the use of purchasing cards
25 which shall instruct users of purchasing cards on the maximum value utilization of such
26 purchasing cards and employees who use such purchasing cards shall comply with the
27 provisions of such manual;
- 28 (11) Departments and agencies of the state shall review not less than annually all
29 purchasing cards issued to their employees and shall eliminate purchasing cards for
30 employees who demonstrate consistently low usage of such purchasing cards;
- 31 (12) Departments and agencies of the state which have more than 100 purchasing cards
32 issued to employees shall establish goals to reduce such number of purchasing cards by
33 at least 10 percent by December 31, 2009;
- 34 (13) Employees hired for job positions for which purchasing cards are issued shall be
35 subjected to criminal background checks before hiring and a credit check shall be
36 completed by the hiring department or agency on all employees to whom a purchasing
37 card is issued prior to issue;

1 (14) Purchasing cards shall be issued only to employees of departments and agencies of
2 the state whose positions are funded directly from state budget funds and no purchasing
3 cards shall be issued to employees of foundations associated with departments and
4 agencies of the state;

5 (15) Each purchase made with a purchasing card shall be accompanied by a receipt or
6 other documentation listing each item purchased, the purchase price for each item, and
7 any taxes, fees, or other amounts paid in connection with such purchase; and

8 (16) With respect to any purchase made with a purchasing card, if the employee to whom
9 such card was issued does not provide documentation meeting the requirements of
10 paragraph (15) of this subsection to his or her supervisor for recording on the purchasing
11 log required to be maintained as provided in paragraph (4) of this subsection, such
12 employee shall be personally responsible for such purchase.

13 (c) Any employee of a department or agency of the state who knowingly:

14 (1) Uses a purchasing card for personal gain;

15 (2) Purchases items on such purchasing card that are not authorized for purchase by such
16 employee;

17 (3) Purchases items in violation of this Code section; or

18 (4) Retains for such employee's personal use a rebate or refund from a vendor, bank, or
19 other financial institution for a purchase or the use of a purchasing card

20 shall be subject to immediate termination of employment, restitution for the amount of the
21 improper purchases, and criminal prosecution. Any person violating this subsection shall
22 be guilty of a misdemeanor of a high and aggravated nature if the value of the items
23 improperly purchased or retained is less than \$500.00 in the aggregate and shall be guilty
24 of a felony if the value of the items improperly purchased or retained is \$500.00 or more
25 in the aggregate and, upon conviction of such felony, shall be sentenced to not less than
26 one nor more than 20 years imprisonment, a fine not to exceed \$50,000.00, or both.

27 (d) The supervisor of an employee who either intentionally or negligently allows or
28 conspires with an employee who is issued a purchasing card to violate subsection (c) of this
29 Code section shall be subject to immediate termination of employment and criminal
30 prosecution. Any person violating this subsection shall be guilty of a misdemeanor of a
31 high and aggravated nature if the value of the items improperly purchased or retained is
32 less than \$500.00 in the aggregate and shall be guilty of a felony if the value of the items
33 improperly purchased or retained is \$500.00 or more in the aggregate and, upon conviction
34 of such felony, shall be sentenced to not less than one nor more than 20 years
35 imprisonment, a fine not to exceed \$50,000.00, or both.

36 (e) The department is authorized to promulgate such rules and regulations as necessary to
37 implement this Code section."

