

House Bill 447

By: Representatives Gullett of the 19<sup>th</sup>, Jones of the 25<sup>th</sup>, Evans of the 57<sup>th</sup>, Chastain of the 7<sup>th</sup>, and Barrett of the 24<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 4 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to fraud and related offenses, so as to provide for the crimes of gift card theft, gift  
3 card forgery, and gift card fraud; to provide for definitions; to provide for penalties for  
4 violations; to provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 4 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to fraud  
8 and related offenses, is amended by adding a new Code section to read as follows:

9 "16-9-64.

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

11 (1) 'Cardholder' means any person to whom a physical or virtual gift card is sold, gifted,  
12 or issued following the authorized sale of such gift card.

13 (2) 'Card issuer' means any person that issues a gift card.

14 (3) 'Closed-loop gift card' means a card, code, or device issued to a consumer on a  
15 prepaid basis primarily for personal, familial, or household purposes in a specified  
16 amount, regardless of whether such amount may be increased or reloaded in exchange for

17 payment, and is redeemable upon presentation by a consumer at a single merchant or  
18 group of affiliated merchants.

19 (4) 'Gift card' means a physical or digital closed-loop gift card or open-loop gift card  
20 whether activated or inactivated.

21 (5) 'Gift card redemption information' means information unique to each gift card which  
22 allows the cardholder to access, transfer, or spend the funds on such gift card.

23 (6) 'Gift card seller' means a merchant engaged in the business of selling open-loop gift  
24 cards or closed-loop gift cards to consumers.

25 (7) 'Open-loop gift card' means a card, code, or device issued to a consumer on a prepaid  
26 basis primarily for personal, familial, or household purposes in a specified amount,  
27 regardless of whether such amount may be increased or reloaded in exchange for  
28 payment, and is redeemable upon presentation at multiple unaffiliated merchants for  
29 goods or services within the payment card network.

30 (8) 'Value' means the greatest amount of economic loss the card issuer, gift card seller,  
31 or cardholder might reasonably suffer, including the full or maximum monetary face or  
32 load value of the gift card, regardless of whether or not such gift card has been activated.

33 (b) Any person who, with intent to defraud, acquires or retains possession of a gift card  
34 or gift card redemption information without the consent of the cardholder, card issuer, or  
35 gift card seller shall be guilty of gift card theft.

36 (c) Any person who, with intent to defraud, alters or tampers with a gift card or its  
37 packaging shall be guilty of gift card forgery.

38 (d) Any person who, with intent to defraud, devises a scheme to obtain a gift card or gift  
39 card redemption information from a cardholder, card issuer, or gift card seller by means of  
40 false or fraudulent pretenses, representations, or promises, shall be guilty of gift card fraud.

41 (e) Any person who, with intent to defraud, uses, for the purpose of obtaining money,  
42 goods, services, or anything else of value, a gift card or gift card redemption information

43 that has been obtained in violation of subsections (b), (c), or (d) of this Code section shall  
44 be guilty of gift card theft.

45 (f) Any person who is convicted of violating subsection (b), (c), (d), or (e) of this Code  
46 section shall be punished;

47 (1) As for a misdemeanor, if the value of all money, goods, services, and other things of  
48 value obtained in violation of this Code section is less than \$500.00;

49 (2) By imprisonment for not less than one nor more than ten years and a fine not to  
50 exceed \$5,000.00, if the amount of all money, goods, services, and other things of value  
51 obtained in violation of this Code section is \$500.00 or more; or

52 (3) By imprisonment for not less than one nor more than ten years and a fine nor to  
53 exceed \$5,000.00, if the amount of all money, goods, services, and other things of value  
54 obtained in violation of this Code section exceeds \$500.00 in any consecutive six-month  
55 period."

56 **SECTION 2.**

57 All laws and parts of laws in conflict with this Act are repealed.