

The House Committee on Judiciary, Non Civil offers the following substitute to HB 447:

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 **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

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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 by imprisonment for not less than one nor more than ten years
47 and a fine not to exceed \$5,000.00."

48 **SECTION 2.**

49 All laws and parts of laws in conflict with this Act are repealed.