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S.B. No. 1809

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the offense of fraudulent use,
possession, or tampering with a gift card, gift card packaging, or
gift card data or redemption information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 32, Penal Code, is amended
by adding Section 32.56 to read as follows:

Sec. 32.56. FRAUDULENT USE, POSSESSION, OR TAMPERING WITH
GIFT CARD, GIFT CARD PACKAGING, OR GIFT CARD DATA OR REDEMPTION
INFORMATION. (a) In this section:

(1) "Cardholder" means a person to whom a physical or
virtual gift card is given or any person who purchased the gift
card.

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

(3) "Counterfeit gift card" means a gift card that:
(A) purports on the front or back of the card to
have been issued by an issuer that did not issue the card;

(B) has been altered to contain a digital imprint
other than that which was placed on the card by the issuer;

(C) contains a digital imprint with account or
other information differing from that which is printed or embossed
on the card by the issuer; or

(D) has been altered to change the account or

1 other information, including an image or code, on the front or back
2 of the card from that which was printed or embossed on the card by
3 the issuer.

4 (4) "Digital imprint" means the digital data placed on
5 a gift card's magnetic strip or chip.

6 (5) "Gift card" means a card, code, or device that is
7 issued to a consumer on a prepaid basis in a specified amount and
8 redeemable upon presentation for the purchase of goods or services
9 and that is either activated or inactivated.

10 (6) "Gift card redemption information" means
11 information unique to each gift card that allows the cardholder to
12 access, transfer, or spend funds on the gift card.

13 (7) "Gift card seller" means a merchant engaged in the
14 business of selling gift cards to consumers.

15 (b) A person commits an offense if the person, with the
16 intent to harm or defraud another:

17 (1) acquires or retains possession of a gift card, a
18 digital imprint, or gift card redemption information without the
19 consent of the cardholder, card issuer, or gift card seller;

20 (2) alters or tampers with a gift card or gift card
21 packaging;

22 (3) possesses, transports, uses, or attempts to use a
23 gift card, a digital imprint, or gift card redemption information
24 to obtain goods, services, or anything else of value with knowledge
25 that the gift card is a counterfeit gift card or that the gift card,
26 digital imprint, or gift card redemption information has been
27 obtained in violation of Subdivision (1); or

1 (4) transports an unactivated gift card into a retail
2 location that sells gift cards and places or attempts to place the
3 gift card on a gift card rack, kiosk, or other display in a manner
4 that would entice the public to purchase the gift card.

5 (c) If an actor possesses three or more gift cards,
6 counterfeit gift cards, or digital imprints or the gift card
7 redemption information obtained from three or more gift cards, a
8 rebuttable presumption exists that the actor possesses each item
9 without the consent of the cardholder, card issuer, or gift card
10 seller.

11 (d) The presumption established under Subsection (c) does
12 not apply to a business or other commercial entity or a governmental
13 agency that is engaged in a business activity or governmental
14 function that does not violate a penal law of this state.

15 (e) An offense under this section is:

16 (1) a state jail felony if the actor engaged in conduct
17 described by Subsection (b) with respect to fewer than five
18 unactivated gift cards, counterfeit gift cards, or digital imprints
19 or gift card redemption information of gift cards;

20 (2) a felony of the third degree if the actor engaged
21 in conduct described by Subsection (b) with respect to 5 or more but
22 fewer than 10 unactivated gift cards, counterfeit gift cards, or
23 digital imprints or gift card redemption information of gift cards;

24 (3) a felony of the second degree if the actor engaged
25 in conduct described by Subsection (b) with respect to 10 or more
26 but fewer than 50 unactivated gift cards, counterfeit gift cards,
27 or digital imprints or gift card redemption information of gift

1 cards; or

2 (4) a felony of the first degree if the actor engaged
3 in conduct described by Subsection (b) with respect to 50 or more
4 unactivated gift cards, counterfeit gift cards, or digital imprints
5 or gift card redemption information of gift cards.

6 (f) If conduct that constitutes an offense under this
7 section also constitutes an offense under any other law, the actor
8 may be prosecuted under this section, the other law, or both.

9 SECTION 2. This Act takes effect September 1, 2025.