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S.B. No. 1809

A BILL TO BE ENTITLED

# 1 AN ACT

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

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

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

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

16 (3) "Counterfeit gift card" means a gift card that:

21 (C) contains a digital imprint with account or

23 on the card by the issuer; or

(b) has been directed to change the account of

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.