

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 1007](#)

**TITLE:** Fraudulent Use of Gift Cards

**SPONSOR(S):** Greco, Daley

**COMPANION BILL:** [CS/SB 1198](#) (DiCeglie)

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Criminal Justice](#)

17 Y, 0 N, As CS



[Judiciary](#)

20 Y, 0 N

## SUMMARY

### Effect of the Bill:

The bill creates new criminal offenses related to the fraudulent use of gift cards. Under the bill, it is unlawful for a person, with the intent to defraud, to:

- Acquire or retain possession of a gift card or gift card redemption information without specified consent;
- Alter or tamper with a gift card or its packaging;
- Devise a scheme to obtain a gift card or gift card redemption information by false or fraudulent pretenses; or
- Use, for the purpose of obtaining money, goods, services, or anything else of value, a gift card or gift card redemption information obtained in violation of the prohibitions above.

Generally, a violation is punishable as a first degree misdemeanor, however, if a person has previously been convicted of a violation, or if the value of any gift card, gift card redemption information, or money, goods, services, or other thing of value obtained exceeds \$750, then a violation is a third degree felony.

### Fiscal or Economic Impact:

The bill may have an indeterminate positive impact on jail and prison beds by creating new misdemeanor and felony offenses related to the fraudulent use of gift cards, which may result in increased jail and prison admissions.

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## ANALYSIS

### EFFECT OF THE BILL:

The bill creates new criminal offenses related to the [fraudulent use of gift cards](#). Specifically, under the bill, it is unlawful for a person, with the intent to defraud, to:

- Acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller.
- Alter or tamper with a gift card or its packaging.
- Devise a scheme to obtain a gift card or gift card redemption information from a cardholder, card issuer, or gift card seller by means of false or fraudulent pretenses, representations, or promises.
- Use, for the purpose of obtaining money, goods, services, or anything else of value, a gift card or gift card redemption information that has been obtained in violation of any of the above listed prohibitions. (Section [1](#))

Generally, a person who commits a violation commits a first degree misdemeanor. However, it is a third degree felony if:

- The person commits a second or subsequent violation.
- The value of any gift card, gift card redemption information, or money, goods, services, or other thing of value obtained as a result of the violation exceeds \$750. (Section [1](#))

**STORAGE NAME:** h1007b.JDC

**DATE:** 4/2/2025

The bill specifies that the value of any gift card, gift card redemption information, or money, goods, services, or other thing of value obtained as a result of a violation may be aggregated to determine the degree of the offense. (Section [1](#))

The bill provides the following definitions:

- "Cardholder" means a person to whom a physical or virtual gift card is sold, gifted, or issued following the authorized sale of the gift card.
- "Card issuer" means a person who issues a gift card or the agent of that person with respect to that card.
- "Gift card" means a physical or virtual card, code, or device that may be issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and that is redeemable upon presentation by a consumer at a single merchant, a group of affiliated merchants, or a group of unaffiliated merchants.
- "Gift card redemption information" means information unique to each gift card which allows the cardholder to access, transfer, or spend the funds on that gift card.
- "Gift card seller" means a merchant that is engaged in the business of selling gift cards to consumers.
- "Value" means the greatest amount of economic loss the card issuer, gift card seller, or cardholder might reasonably suffer, including the full or maximum monetary face or load value of the gift card, regardless of whether the gift card has been activated. (Section [1](#))

The effective date of the bill is October 1, 2025. (Section [2](#))

## FISCAL OR ECONOMIC IMPACT:

### STATE GOVERNMENT:

The bill may have an indeterminate positive impact on prison beds by creating new felony offenses related to the fraudulent use of gift cards, which may result in increased prison admissions.

### LOCAL GOVERNMENT:

The bill may have an indeterminate positive impact on jail beds by creating new misdemeanor offenses related to the fraudulent use of gift cards, which may result in increased jail admissions.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### [Gift Card Scams](#)

According to the Federal Trade Commission (FTC), at least \$217 million was stolen through gift cards in 2023.<sup>1</sup> As of November 2024, the American Association of Retired Persons (AARP) found that more than one in four consumers have given or received a gift card with zero value.<sup>2</sup> Two prevalent types of gift card scams are "gift card draining" and email, telephone, and other online schemes.

#### Gift Card Draining

"Gift card draining" involves a scammer tampering with a gift card before a customer purchases it.<sup>3</sup> The scammer often removes a gift card from its rack, records the card's activation code, returns the card to its rack, and waits for someone else to purchase the card.<sup>4</sup> After the store activates the card for the purchaser's use, the scammer accesses the funds online before the purchaser uses the card, thus "draining" the balance.<sup>5</sup> A scammer might repeat

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<sup>1</sup> AARP, [Gift Card Scams: How to Avoid Them and Protect Yourself](#), Nov. 19, 2024 (last visited Apr. 2, 2025).

<sup>2</sup> *Id.*

<sup>3</sup> FTC, [Check Out Gift Cards Before You Buy Them](#), Dec. 19, 2024 (last visited Apr. 2, 2025).

<sup>4</sup> *Id.*

<sup>5</sup> Better Business Bureau, [Don't Get Scammed Out of a Gift Card](#), Sep. 12, 2024 (last visited Apr. 2, 2025).

this process with multiple cards, and some scammers steal large quantities of gift cards at once and return them to store racks after recording the activation codes.<sup>6</sup> Some retailers are even redesigning gift cards to provide an extra layer of protection against gift card draining.<sup>7</sup>

#### Email, Telephone, and other Online Schemes

Another gift card scam often begins with a call, text, email, or social media message asking the unsuspecting victim to buy gift cards and provide the card number and PIN code to the scammer.<sup>8</sup> The scammer may claim that he or she is calling with an urgent request on behalf of the government, a tech support or utility company, or a family member, and attempts to convince the victim to buy a gift card and relay the card number and PIN on the back of the card to give the scammer access to the funds in order to resolve whatever issue the scammer made up.<sup>9</sup>

### **Other Fraud Offenses**

#### Obtaining Property by False Personation

Under [s. 817.02, F.S.](#), an individual must be punished as if he or she had been convicted of larceny, and will thus receive a penalty based on the value of the property involved in the offense, if he or she falsely personates or represents another person and:

- Receives any property intended to be delivered to that person, with the intent to convert the same to his or her own use; or
- Damages the credit history or rating of, or otherwise causes harm to, the person whose identity has been assumed through the taking of property.

#### Organized Fraud and Communications Fraud

Florida's Communications Fraud Act prohibits a person from committing organized fraud by engaging in a scheme to defraud and obtaining property thereby, punishable as follows:

- A first degree felony,<sup>10</sup> if the amount of property obtained has an aggregate value of \$50,000 or more.
- A second degree felony,<sup>11</sup> if the amount of property obtained has an aggregate value of \$20,000 or more, but less than \$50,000.
- A third degree felony,<sup>12</sup> if the amount of property obtained has an aggregate value of less than \$20,000.<sup>13</sup>

Additionally, a person commits communications fraud<sup>14</sup> if he or she engages in a scheme to defraud and, in furtherance of that scheme, communicates with any person with the intent to obtain property from that person, punishable as follows:

- A third degree felony, if the value of property obtained or endeavored to be obtained by the communication is valued at \$300 or more.
- A first degree misdemeanor,<sup>15</sup> if the value of the property obtained or endeavored to be obtained by the communication is valued at less than \$300.<sup>16</sup>

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<sup>6</sup> *Supra* note 1.

<sup>7</sup> AARP, [Target Redesigns Gift Cards to Fight Scammers](#), Dec. 4, 2024 (last visited Apr. 2, 2025).

<sup>8</sup> FTC, [Avoiding and Reporting Gift Card Scams](#), July 2023 (last visited Apr. 2, 2025).

<sup>9</sup> *Id.*

<sup>10</sup> A first degree felony is punishable by up to 30 years in prison and a \$10,000 fine. [Ss. 775.082, F.S., 775.083, F.S.](#), or [775.084, F.S.](#)

<sup>11</sup> A second degree felony is punishable by up to 15 years in prison and a \$10,000 fine. [Ss. 775.082, F.S., 775.083, F.S.](#), or [775.084, F.S.](#)

<sup>12</sup> A third degree felony is punishable by up to five years in prison and a \$5,000 fine. [Ss. 775.082, F.S., 775.083, F.S.](#), or [775.084, F.S.](#)

<sup>13</sup> [S. 817.034\(4\)\(a\), F.S.](#)

<sup>14</sup> Both organized fraud and communications fraud receive enhanced penalties if committed against a person age 65 years or older, against a minor, or against a person with a mental or physical disability, as defined in [s. 775.0863\(1\)\(b\), F.S.](#) [S. 817.034\(4\)\(c\), F.S.](#)

<sup>15</sup> A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. [Ss. 775.082 and 775.083, F.S.](#)

<sup>16</sup> [S. 817.034\(4\)\(b\), F.S.](#)

### Theft by Taking or Retaining Possession of a Credit Card

Under [s. 817.60\(1\), F.S.](#), a person commits credit card theft if he or she takes a credit card from the person, possession, custody, or control of another without the cardholder's consent or who, with knowledge that a credit card has been so taken, receives such card with the intent to use it, sell it, or transfer it to a person other than the issuer or the cardholder. This offense is punishable as a first degree misdemeanor under [s. 817.67\(1\), F.S.](#)<sup>17</sup>

### Fraudulent Use of Credit Cards

Under [s. 817.61, F.S.](#), it is unlawful for a person, with the intent to defraud the issuer or a person or organization providing money, goods, services, or anything else of value or any other person, to:

- Use for the purpose of obtaining money, goods, services, or anything else of value, a credit card obtained or retained unlawfully or a credit card which he or she knows is forged; or
- Obtain money, goods, services, or anything else of value by representing, without the consent of the cardholder, that he or she is the holder of a specified card or by representing that he or she is the holder of a card and such card has not in fact been issued.

A person who, in any 6-month period, uses a credit card in violation of [s. 817.61, F.S.](#), commits:

- A first degree misdemeanor under [s. 817.67\(1\), F.S.](#), if he or she uses the card two or fewer times, or obtains money, goods, services, or anything else in violation of this section valued at less than \$100,
- A third degree felony under [s. 817.67\(2\), F.S.](#), if he or she uses the card more than two times, or obtains money, goods, services, or anything else in violation of this section valued at \$100 or more.<sup>18</sup>

### Trafficking in or Possessing Counterfeit Credit Cards

Under [s. 817.611, F.S.](#), a person who traffics in, attempts to traffic in, or possesses counterfeit credit cards or related documents in any 6-month period commits a:

- Second degree felony, ranked as a Level 5 offense on the offense severity ranking chart (OSRC), if the person traffics in, attempts to traffic in, or possesses 5 to 14 counterfeit credit cards or related documents.
- Second degree felony, ranked as a Level 7 offense on the OSRC, if the person traffics in, attempts to traffic in, or possesses 15 to 49 counterfeit credit cards or related documents.
- First degree felony, ranked as a Level 8 offense on the OSRC, if the person traffics in, attempts to traffic in, or possesses 50 or more counterfeit credit cards or related documents.

### **Theft Offenses**

Generally, a person commits theft by knowingly obtaining or using, or endeavoring to obtain or to use, the property of another with the intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.<sup>19</sup>

Section [812.014, F.S.](#), defines theft offenses and generally categorizes the offense level based on the value of the property stolen. Whether a theft is a misdemeanor or a felony may also depend on the offender's prior history of

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<sup>17</sup> Taking a credit card without consent includes obtaining it by conduct defined or known as statutory larceny, common-law larceny by trespassory taking, common-law larceny by trick or embezzlement or obtaining property by false pretense, false promise, or extortion. [S. 817.60\(1\), F.S.](#)

<sup>18</sup> [S. 817.61, F.S.](#)

<sup>19</sup> [S. 812.014\(1\), F.S.](#)

theft convictions or the type of property stolen. The offense levels for theft crimes based on property value thresholds and general property types are generally classified as follows:

	Property Value	Offense Level
Grand Theft	≥ \$100,000	First Degree Felony
	≥ \$20,000, but < \$100,000	Second Degree Felony
	≥ \$10,000, but < \$20,000	Third Degree Felony
	≥ \$5,000, but < \$10,000	Third Degree Felony
	≥ \$750, but < \$5,000	Third Degree Felony
	≥ \$40, but < \$750 if taken from a dwelling or unenclosed curtilage of a dwelling	Third Degree Felony
Petit Theft	≥ \$100, but < \$750	First Degree Misdemeanor
	< \$100	Second Degree Misdemeanor <sup>20</sup>

#### OTHER RESOURCES:

[Middle District of Florida | Chinese National Pleads Guilty To Access Device Fraud | United States Department of Justice](#)

[Northern District of West Virginia | Florida Man Admits to Operating a Gift Card Draining Scam | United States Department of Justice](#)

### BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Criminal Justice Subcommittee</a>	17 Y, 0 N, As CS	3/19/2025	Hall	Butcher
THE CHANGES ADOPTED BY THE COMMITTEE:		<ul style="list-style-type: none"> <li>Created a single section of statute under which specified gift card fraud offenses apply.</li> <li>Created a first degree misdemeanor if a person commits specified gift card fraud offenses.</li> <li>Created a third degree felony if a person commits a second or subsequent gift card fraud offense, or if a person commits a gift card fraud offense where the value exceeds \$750.</li> <li>Specified that the value of any gift card, gift card redemption information, or money, goods, services, or other thing of value obtained as a result of a violation may be aggregated to determine the degree of the offense.</li> <li>Made technical changes.</li> </ul>		
<a href="#">Judiciary Committee</a>	20 Y, 0 N	4/2/2025	Kramer	Butcher

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.

<sup>20</sup> A second degree misdemeanor is punishable by up to 60 days in county jail and a \$500 fine. [Ss. 775.082](#) and [775.083, F.S.](#)

