Session of 2025

SENATE BILL No. 84

By Committee on Judiciary

1-27

AN ACT concerning crimes, punishment and criminal procedure; relating to crimes involving property; modifying criminal use of a financial card to include certain conduct involving gift cards; amending K.S.A. 21-5828 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 21-5828 is hereby amended to read as follows: 21-5828. (a) Criminal use of a financial card *or gift card* is any of the following acts done with intent to defraud and to obtain money, goods, property or services:

(1) Using a financial card without the consent of the cardholder;

(2) using a financial card, or the number or description thereof, which has been revoked or canceled; ~~or~~

(3) using a falsified, mutilated, altered or nonexistent financial card or a number or description thereof*;*

(4) acquiring or retaining possession of a gift card or gift card redemption information without the consent of the cardholder, gift card issuer or gift card seller; or

(5) altering or tampering with a gift card.

(b) Criminal use of a financial card *or gift card* is a:

(1) Severity level 7, nonperson felony if the money, goods, property or services obtained within any seven-day period are of the value of $25,000 or more;

(2) Severity level 9, nonperson felony if the money, goods, property or services obtained within any seven-day period are of the value of at least $1,000 but less than $25,000; and

(3) class A nonperson misdemeanor if the money, goods, property or services obtained within a seven-day period are of the value of less than $1,000.

(c) As used in this section:

(1) *"Cardholder" means:*

(A) The person or entity to whom or for whose benefit a financial card is issued; or

(B) the person to whom a physical or virtual gift card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a gift card to another person;

(2) "closed-loop gift card" means a card, code or device that is 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 is redeemable upon presentation by a consumer at a single merchant or group of affiliated merchants;

(3) "financial card" means an identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property or services or to conduct other financial transactions; ~~and~~

~~(2) "cardholder" means the person or entity to whom or for whose benefit a financial card is issued~~

(4) "gift card" means a physical or digital closed-loop gift card or open-loop gift card that is either activated or inactivated;

(5) "gift card issuer" means any person that issues a gift card or the agent of that person with respect to such card;

(6) "gift card redemption information" means information unique to each gift card that allows the cardholder to access, transfer or spend the funds on such gift card;

(7) "gift card seller" means a merchant that is engaged in the business of selling gift cards to consumers; and

(8) "open-loop gift card" means a card, code or device that is 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 is redeemable upon presentation at multiple unaffiliated merchants for goods or services within the payment card network.

(d) For the purposes of subsection (a)(2), a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company.

Sec. 2. K.S.A. 21-5828 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.