

SENATE SUMMARY OF HOUSE AMENDMENTS**SB 38****2025 Regular Session****Hensgens****KEYWORD AND SUMMARY AS RETURNED TO THE SENATE**

CRIME/PUNISHMENT. Creates the crime of theft of gift cards or gift card redemption information. (8/1/25)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Changes from creating a new crime of theft of gift card to adding gift cards to the crime of access device fraud.
2. Changes the definition of "gift card" from a physical or digital open-loop or closed-loop card that represents the cardholder's right to exchange the value of the gift card for goods or services to a card, code, or device that is issued to a consumer on a prepaid basis in an amount and is redeemable in exchange for goods or services.
3. Changes sentencing from an offender being sentenced in accordance with the general theft statute to an offender being sentenced in accordance with the access device fraud statute.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

SB 38 Engrossed

2025 Regular Session

Hensgens

Present law provides for the crime of access device fraud. Provides that no person shall without authorization and with the intent to defraud transfer or possess an access device to another person. Provides that no person shall with the intent to defraud use, possess, or transfer device-making equipment or a counterfeit access device.

Proposed law retains present law and adds that no person shall knowingly and with the intent to defraud possess fifteen or more counterfeit or misappropriated access devices.

Present law defines "access device" as a person's social security number, driver's license number, birth date, mother's maiden name, checking account numbers, savings account numbers, personal identification numbers, electronic identification numbers, digital signatures, or other means of account access that can be used to obtain anything of value, whether contemporaneously or not.

Proposed law retains present law and adds to the definition of "access device" a gift card and account information related to a gift card.

Proposed law defines "gift card" as a card, code, or device that is issued to a consumer on a prepaid basis in a specified amount and is redeemable in exchange for goods or services. The value of the gift is either the maximum face value of the card when it is held for sale by the merchant or the actual value of the funds deposited with the merchant at the time of the activation and purchase.

Present law provides the following penalties for an offender who commits the crime of access device fraud:

- (1) When the misappropriation or taking amounts to a value of \$25,000 or more, imprisonment at hard labor for not more than 20 years, or fined not more than \$50,000 or both.
- (2) When the misappropriation or taking amounts to a value of \$5,000 or more, but less than a value of \$25,000, imprisonment, with or without hard labor, for not more than 10 years, or fined not more than \$10,000, or both.

- (3) When the misappropriation or taking amounts to a value of \$1,000 or more, but less than a value of \$5,000, imprisonment, with or without hard labor, for not more than 5 years, or may be fined not more than \$3,000, or both.
- (4) When the misappropriation or taking amounts to a value of less than \$1,000, imprisonment for not more than six months or fined not more than \$500, or both.

Proposed law retains present law.

Present law requires the court to order restitution as a part of the sentence. Provides that restitution may include payment for any cost incurred by the victim, including attorney fees, costs associated in clearing the credit history or credit ratings of the victim, or costs incurred in connection with any civil or administrative proceedings to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant.

Proposed law retains the requirement for the court to order restitution to the victim but provides that it shall be in accordance with present law that provides that the restitution be for actual pecuniary loss to the victim and made through the court's designated intermediary, or with the victim's consent, directly to the victim.

Effective Aug. 1, 2025.

(Adds R.S. 14:70.4(D) through (G); adds R.S. 14:70.4(H))