

SB 258-FN - AS AMENDED BY THE SENATE

03/06/2025 0493s

2025 SESSION

25-1041

09/08

SENATE BILL

258-FN

AN ACT

establishing crimes related to the fraudulent use of gift cards.

SPONSORS:

Sen. Ricciardi, Dist 9; Sen. Murphy, Dist 16; Sen. Innis, Dist 7; Sen. McGough, Dist 11; Sen. Fenton, Dist 10; Rep. Spier, Hills. 6; Rep. Potucek, Rock. 13

COMMITTEE:

Judiciary

AMENDED ANALYSIS

This bill establishes criminal offenses regarding the fraudulent use of gift cards.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT establishing crimes related to the fraudulent use of gift cards.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Theft; Definitions. Amend RSA 637:2 to read as follows:

2 637:2 Definitions.

3 The following definitions are applicable to this chapter:

4 I. "Property" means anything of value, including real estate, tangible and intangible
5 personal property, captured or domestic animals and birds, written instruments or other writings
6 representing or embodying rights concerning real or personal property, labor, services, or otherwise
7 containing any thing of value to the owner, commodities of a public utility nature such as
8 telecommunications, gas, electricity, steam, or water, and trade secrets, meaning the whole or any
9 portion of any scientific or technical information, design, process, procedure, formula or invention
10 which the owner thereof intends to be available only to persons selected by him.

11 II. "Obtain" means, in relation to property, to bring about a transfer of possession or of some
12 other legally recognized interest in property, whether to the obtainer or another; in relation to labor
13 or services, to secure performance thereof; and in relation to a trade secret, to make any facsimile,
14 replica, photograph or other reproduction.

15 III. "Purpose to deprive" means to have the conscious object:

16 (a) To withhold property permanently or for so extended a period or to use under such
17 circumstances that a substantial portion of its economic value, or of the use and benefit thereof,
18 would be lost;

19 (b) To restore the property only upon payment of a reward or other compensation;

20 (c) To dispose of the property under circumstances that make it unlikely that the owner
21 will recover it; or

22 (d) To appropriate the goods or merchandise of a merchant without paying the
23 merchant's stated or advertised price.

24 IV. "Property of another" includes property in which any person other than the actor has an
25 interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an
26 interest in the property and regardless of the fact that the other person might be precluded from civil
27 recovery because the property was used in an unlawful transaction or was subject to forfeiture as
28 contraband. Property in possession of the actor shall not be deemed property of another who has
29 only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales
30 contract or other security agreement.

V. "Value" means the highest amount determined by any reasonable standard of property or services.

(a) Amounts involved in thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense.

(b) The value of property or services obtained by the actor shall determine the grade of the offense, and such value shall not be offset against or reduced by the value of any property or services given by the actor in exchange.

(c) Each personal check or credit card shall have a value of \$250.

(d) Each gift card shall have a value of:

(1) The highest monetary value listed on the face of the gift card or its packaging.

(2) If the highest monetary value of the gift card is not listed on the face of the gift card or its packaging, the gift card shall have a value of \$250.

VI. "Merchant" means the owner or operator of any place of business where merchandise is displayed, held, or stored, for sale to the public, or any agent or employee of such owner or operator.

VII. "Gift Card" means a digital closed-loop gift card or open-loop gift card that is either activated or inactivated.

VIII. "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 a payment card network.

IX. "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.

2 New Section; Crimes Involving Gift Cards. Amend RSA 637 by inserting after section 10-c the following new section:

637:10-d Crimes Involving Gift Cards.

I. The following definitions are applicable to this section:

(a) "Cardholder" with respect to a specific gift card, means the person who has purchased, or to whom is gifted, that card.

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

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1 (c) "Gift card redemption information" means information unique to each gift card which
2 allows the cardholder to access, transfer, or spend the funds on that gift card.

3 (d) "Gift card seller" means a merchant that is engaged in the business of selling open-
4 loop or closed-loop gift cards to consumers.

5 II. A person shall be guilty of theft if such person does any of the following:

6 (a) Acquires or retains possession of a gift card or gift card redemption information with
7 intent to defraud and without consent of the cardholder, card issuers, or gift card reseller;

8 (b) Uses, for the purpose of obtaining money, goods, services, or anything else of value, a
9 gift card or gift card redemption information that has been obtained by deception or forgery; or

10 (c) With intent to defraud, alters or tampers with a gift card or its packaging.

11 3 Effective Date. This act shall take effect January 1, 2026.

**SB 258-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2025-0493s)**

AN ACT establishing crimes related to the fraudulent use of gift cards.

FISCAL IMPACT:

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund</i>	None			
Expenditures*	Indeterminable			
<i>Funding Source</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	Indeterminable			
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	Indeterminable			

METHODOLOGY:

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

AGENCIES CONTACTED:

Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association