

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

**Offered By**

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1 AMEND House Committee Substitute for House Bill Nos. 3068 & 3049, Page 7, Section 43.530,  
2 Line 23, by inserting after said section and line the following:

3  
4 "570.010. As used in this chapter, the following terms mean:

5 (1) "Adulterated", varying from the standard of composition or quality prescribed by  
6 statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none,  
7 as set by commercial usage;

8 (2) "Appropriate", to take, obtain, use, transfer, conceal, retain or dispose;

9 (3) "Check", a check or other similar sight order or any other form of presentment  
10 involving the transmission of account information for the payment of money;

11 (4) "Closed-loop gift card", a card, code, or device that is:

12 (a) Issued to a consumer on a prepaid basis primarily for personal, family, or household  
13 purposes in a specified monetary amount, regardless of whether that amount may be increased or  
14 reloaded in exchange for payment; and

15 (b) Redeemable upon presentation by a consumer at a single merchant or group of  
16 affiliated merchants;

17 (5) "Coercion", a threat, however communicated:

18 (a) To commit any offense; or

19 (b) To inflict physical injury in the future on the person threatened or another; or

20 (c) To accuse any person of any offense; or

21 (d) To expose any person to hatred, contempt or ridicule; or

22 (e) To harm the credit or business reputation of any person; or

23 (f) To take or withhold action as a public servant, or to cause a public servant to take or  
24 withhold action; or

25 (g) To inflict any other harm which would not benefit the actor. A threat of accusation,  
26 lawsuit or other invocation of official action is justified and not coercion if the property sought to  
27 be obtained by virtue of such threat was honestly claimed as restitution or indemnification for  
28 harm done in the circumstances to which the accusation, exposure, lawsuit or other official  
29 action relates, or as compensation for property or lawful service. The defendant shall have the  
30 burden of injecting the issue of justification as to any threat;

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1           ~~[(5)]~~ (6) "Credit device", a writing, card, code, number or other device purporting to  
 2 evidence an undertaking to pay for property or services delivered or rendered to or upon the  
 3 order of a designated person or bearer;

4           ~~[(6)]~~ (7) "Dealer", a person in the business of buying and selling goods;

5           ~~[(7)]~~ (8) "Debit device", a writing, card, code, number or other device, other than a  
 6 check, draft or similar paper instrument, by the use of which a person may initiate an electronic  
 7 fund transfer, including but not limited to devices that enable electronic transfers of benefits to  
 8 public assistance recipients;

9           ~~[(8)]~~ (9) "Deceit or deceive", making a representation which is false and which the actor  
 10 does not believe to be true and upon which the victim relies, as to a matter of fact, law, value,  
 11 intention or other state of mind, or concealing a material fact as to the terms of a contract or  
 12 agreement. The term "deceit" does not, however, include falsity as to matters having no  
 13 pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the  
 14 group addressed. Deception as to the actor's intention to perform a promise shall not be inferred  
 15 from the fact alone that he did not subsequently perform the promise;

16           ~~[(9)]~~ (10) "Deprive":

17           (a) To withhold property from the owner permanently; or

18           (b) To restore property only upon payment of reward or other compensation; or

19           (c) To use or dispose of property in a manner that makes recovery of the property by the  
 20 owner unlikely;

21           ~~[(10)]~~ (11) "Electronic benefits card" or "EBT card", a debit card used to access food  
 22 stamps or cash benefits issued by the department of social services;

23           ~~[(11)]~~ (12) "Financial institution", a bank, trust company, savings and loan association,  
 24 or credit union;

25           ~~[(12)]~~ (13) "Food stamps", the nutrition assistance program in Missouri that provides  
 26 food and aid to low-income individuals who are in need of benefits to purchase food operated by  
 27 the United States Department of Agriculture (USDA) in conjunction with the department of  
 28 social services;

29           ~~[(13)]~~ (14) "Forcibly steals", a person, in the course of stealing, uses or threatens the  
 30 immediate use of physical force upon another person for the purpose of:

31           (a) Preventing or overcoming resistance to the taking of the property or to the retention  
 32 thereof immediately after the taking; or

33           (b) Compelling the owner of such property or another person to deliver up the property  
 34 or to engage in other conduct which aids in the commission of the theft;

35           (15) "Gift card", a physical or digital closed-loop gift card or open-loop gift card that is  
 36 either activated or inactivated;

37           (16) "Gift card holder", any person or party to whom a physical or virtual gift card is  
 38 issued through a purchase, or any person or party who receives a gift card from a willing party;

1           (17) "Gift card issuer", any person who issues a gift card or the agent of that person with  
2 respect to a gift card;

3           (18) "Gift card redemption information", information unique to each gift card that allows  
4 the gift card holder to access, transfer, or spend the funds on that gift card;

5           (19) "Gift card seller", a merchant that is engaged in the business of selling open-loop or  
6 closed-loop gift cards to consumers with the approval or authorization of the gift card issuer;

7           [(14)] (20) "Internet service", an interactive computer service or system or an  
8 information service, system, or access software provider that provides or enables computer  
9 access by multiple users to a computer server, and includes, but is not limited to, an information  
10 service, system, or access software provider that provides access to a network system commonly  
11 known as the internet, or any comparable system or service and also includes, but is not limited  
12 to, a world wide web page, newsgroup, message board, mailing list, or chat area on any  
13 interactive computer service or system or other online service;

14           [(15)] (21) "Means of identification", anything used by a person as a means to uniquely  
15 distinguish himself or herself;

16           [(16)] (22) "Merchant", a person who deals in goods of the kind or otherwise by his or  
17 her occupation holds oneself out as having knowledge or skill peculiar to the practices or goods  
18 involved in the transaction or to whom such knowledge or skill may be attributed by his or her  
19 employment of an agent or broker or other intermediary who by his or her occupation holds  
20 oneself out as having such knowledge or skill;

21           [(17)] (23) "Misabeled", varying from the standard of truth or disclosure in labeling  
22 prescribed by statute or lawfully promulgated administrative regulations of this state lawfully  
23 filed, or if none, as set by commercial usage; or represented as being another person's product,  
24 though otherwise accurately labeled as to quality and quantity;

25           (24) "Open-loop gift card", a card, code, or device that is:

26           (a) Issued to a consumer on a prepaid basis primarily for personal, family, or household  
27 purposes in a specified monetary amount, regardless of whether that amount may be increased or  
28 reloaded in exchange for payment;

29           (b) Branded with a major payment network; and

30           (c) Redeemable upon presentation at multiple unaffiliated merchants for goods or  
31 services;

32           [(18)] (25) "Pharmacy", any building, warehouse, physician's office, hospital,  
33 pharmaceutical house or other structure used in whole or in part for the sale, storage, or  
34 dispensing of any controlled substance as defined in chapter 195;

35           [(19)] (26) "Property", anything of value, whether real or personal, tangible or  
36 intangible, in possession or in action, and shall include but not be limited to the evidence of a  
37 debt actually executed but not delivered or issued as a valid instrument;

1           [(20)] (27) "Public assistance benefits", anything of value, including money, food, EBT  
2 cards, food stamps, commodities, clothing, utilities, utilities payments, shelter, drugs and  
3 medicine, materials, goods, and any service including institutional care, medical care, dental  
4 care, child care, psychiatric and psychological service, rehabilitation instruction, training,  
5 transitional assistance, or counseling, received by or paid on behalf of any person under chapters  
6 198, 205, 207, 208, 209, and 660, or benefits, programs, and services provided or administered  
7 by the Missouri department of social services or any of its divisions;

8           [(21)] (28) "Services" includes transportation, telephone, electricity, gas, water, or other  
9 public service, cable television service, video service, voice over internet protocol service, or  
10 internet service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and  
11 use of vehicles;

12           [(22)] (29) "Stealing-related offense", federal and state violations of criminal statutes  
13 against stealing, robbery, or buying or receiving stolen property and shall also include municipal  
14 ordinances against the same if the offender was either represented by counsel or knowingly  
15 waived counsel in writing and the judge accepting the plea or making the findings was a licensed  
16 attorney at the time of the court proceedings;

17           [(23)] (30) "Teller machine", an automated teller machine (ATM) or interactive teller  
18 machine (ITM) is a remote computer terminal owned or controlled by a financial institution or a  
19 private business that allows individuals to obtain financial services including obtaining cash,  
20 transferring or transmitting money or digital currencies, payment of bills, or loading money or  
21 digital currency to a payment card or other device without physical in-person assistance from  
22 another person. "Teller machine" does not include personally owned electronic devices used to  
23 access financial services;

24           [(24)] (31) "Video service", the provision of video programming provided through  
25 wireline facilities located at least in part in the public right-of-way without regard to delivery  
26 technology, including internet protocol technology whether provided as part of a tier, on demand,  
27 or a per-channel basis. This definition includes cable service as defined by 47 U.S.C. Section  
28 522(6), but does not include any video programming provided by a commercial mobile service  
29 provider as "commercial mobile service" is defined in 47 U.S.C. Section 332(d), or any video  
30 programming provided solely as part of and via a service that enables users to access content,  
31 information, [~~electronic mail~~] email, or other services offered over the public internet, and  
32 includes microwave television transmission, from a multipoint distribution service not capable of  
33 reception by conventional television receivers without the use of special equipment;

34           [(25)] (32) "Voice over internet protocol service", a service that:

- 35           (a) Enables real-time, two-way voice communication;
- 36           (b) Requires a broadband connection from the user's location;
- 37           (c) Requires internet protocol-compatible customer premises equipment; and

1 (d) Permits users generally to receive calls that originate on the public switched  
2 telephone network and to terminate calls to the public switched telephone network;

3 ~~[(26)]~~ (33) "Writing" includes printing, any other method of recording information,  
4 money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and  
5 any other symbols of value, right, privilege or identification.

6 570.137. 1. A person commits the offense of gift card fraud if he or she knowingly:

7 (1) Alters or tampers with a gift card or its packaging;

8 (2) Devises a scheme to obtain a gift card or gift card redemption information from a gift  
9 card holder, gift card issuer, or gift card seller by means of deceit; or

10 (3) Uses, for the purpose of obtaining money, goods, services, or anything else of value,  
11 a gift card or gift card redemption information that has been obtained in violation of this  
12 subsection.

13 2. The offense of gift card fraud is a class C felony if the value of the gift card; gift card  
14 redemption information; or money, goods, services, or other thing of value obtained as a result of  
15 violating subsection 1 of this section is twenty-five thousand dollars or more.

16 3. The offense of gift card fraud is a class D felony if the value of the gift card; gift card  
17 redemption information; or money, goods, services, or other thing of value obtained as a result of  
18 violating subsection 1 of this section is seven hundred fifty dollars or more but less than twenty-  
19 five thousand dollars.

20 4. The offense of gift card fraud is a class A misdemeanor if the value of the gift card;  
21 gift card redemption information; or money, goods, services, or other thing of value obtained as a  
22 result of violating subsection 1 of this section is less than seven hundred fifty dollars. For the  
23 purpose of determining the value of a gift card under this section, "value" shall mean the greatest  
24 amount of economic loss the owner of the property might reasonably suffer, including, in the  
25 case of a gift card, the full monetary face value or potential value for variable load gift cards.";  
26 and

27  
28 Further amend said bill by amending the title, enacting clause, and intersectional references  
29 accordingly.