



Bill Number: S.B. 1351

Gowan Floor Amendment

Reference to: Judiciary and Elections
Committee Amendment

Amendment drafted by: Zachary Dean

FLOOR AMENDMENT EXPLANATION

- Removes the ability for *gift card theft* to be classified as a felony under the *fraudulent schemes and artifices* statute.

GOWAN FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1351
(Reference to JUDICIARY AND ELECTIONS Committee amendment)

Amendment instruction key:

[GREEN UPPERCASE UNDERLINING IN BRACKETS] indicates that the amendment is adding text to statute or previously enacted session law.
[Green lowercase underlining in brackets] indicates that the amendment is adding text to new session law or is restoring previously stricken text to existing statute.
~~[GREEN UPPERCASE STRIKEOUT IN BRACKETS]~~ indicates that the amendment is removing new text from statute or previously enacted session law.
~~[Green lowercase strikeout in brackets]~~ indicates that the amendment is removing text from existing statute, previously enacted session law or new session law.
<<Double green carets enclosing an entire section>> indicates that the amendment is adding the section to the bill.
~~<<Green strikeout with double green carets enclosing an entire section>>~~ indicates that the amendment is removing the section to the bill.
{ORANGE UPPERCASE UNDERLINING IN DOUBLE CURLY BRACKETS} indicates that the amendment to an amendment is adding text to statute or previously enacted session law.
{Orange lowercase underlining in double curly brackets} indicates that the amendment to an amendment is adding text to new session law or is restoring previously stricken text to existing statute.
~~{ORANGE UPPERCASE STRIKEOUT IN DOUBLE CURLY BRACKETS}~~ indicates that the amendment to an amendment is removing new text from statute or previously enacted session law.
~~{Orange lowercase strikeout in double curly brackets}~~ indicates that the amendment to an amendment is removing text from existing statute, previously enacted session law or new session law.
>>Double orange underlined carets enclosing an entire section>> indicate that the amendment to an amendment is adding the section to the bill.
~~>>Orange strikeout with double orange underlined carets enclosing an entire section>>~~ indicates that the amendment to an amendment is removing the section from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Title 13, chapter 18, Arizona Revised Statutes, is
3 amended by adding section 13-1813, to read:

4 13-1813. Gift card theft; classification; definition

5 A. A PERSON COMMITS GIFT CARD THEFT IF, WITH THE INTENT TO DEFRAUD,
6 THE PERSON KNOWINGLY DOES ANY OF THE FOLLOWING:

7 1. ACQUIRES POSSESSION OF A GIFT CARD OR GIFT CARD INFORMATION
8 WITHOUT THE CONSENT OF THE GIFT CARD HOLDER, ISSUER OR SELLER.

9 2. ACQUIRES POSSESSION OF A GIFT CARD OR GIFT CARD INFORMATION BY
10 EXPLOITING THE GIFT CARD HOLDER, ISSUER OR SELLER.

11 3. OBTAINS MONEY, GOODS, SERVICES OR ANYTHING ELSE OF VALUE WITH A
12 GIFT CARD OR GIFT CARD INFORMATION THAT WAS ACQUIRED IN VIOLATION OF
13 PARAGRAPH 1 OF THIS SUBSECTION.

14 B. GIFT CARD THEFT IS A CLASS ~~[3]~~[4] FELONY.

15 C. FOR THE PURPOSES OF THIS SECTION, "GIFT CARD" MEANS A PHYSICAL
16 OR DIGITAL CLOSED-LOOP OR OPEN-LOOP GIFT CARD THAT IS ACTIVATED OR
17 INACTIVATED.

1 Sec. 2. Section 13-2002, Arizona Revised Statutes, is amended to
2 read:

3 13-2002. Forgery; classification; definitions

4 A. A person commits forgery if, with intent to defraud, the person:

5 1. Falsely makes, completes or alters a written instrument; or

6 2. Knowingly possesses a forged instrument; or

7 3. Offers or presents, whether accepted or not, a forged instrument
8 or one that contains false information.

9 B. The possession of five or more forged instruments may give rise
10 to an inference that the instruments are possessed with an intent to
11 defraud.

12 C. Forgery is a class 4 felony [. INCLUDING IF THE FORGED
13 INSTRUMENT IS A GIFT CARD], except that if the forged instrument is used
14 in connection with the purchase, lease or renting of a dwelling that is
15 used as a drop house [OR IF THE FORGED INSTRUMENT IS A GIFT CARD,] it is a
16 class 3 felony.

17 D. For the purposes of this ~~subsection~~, SECTION:

18 1. "Drop house" means property that is used to facilitate smuggling
19 pursuant to section 13-2319.

20 2. "GIFT CARD" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-1813.

21 ~~Sec. 3. Section 13-2310, Arizona Revised Statutes, is amended to~~
22 ~~read:~~

23 ~~13-2310. Fraudulent schemes and artifices; classification;~~
24 ~~definitions~~

25 ~~A. Any A person who, pursuant to a scheme or artifice to defraud,~~
26 ~~knowingly obtains any benefit by means of false or fraudulent pretenses,~~
27 ~~representations, promises or material omissions is guilty of a class 2~~
28 ~~felony.~~

29 ~~B. Reliance on the part of any person shall not be a necessary~~
30 ~~element of the offense described in subsection A of this section.~~

31 ~~C. A person who is convicted of a violation of this section that~~
32 ~~involved a benefit with a value of one hundred thousand dollars \$100,000~~
33 ~~or more or the manufacture, sale or marketing of opioids is not eligible~~
34 ~~for suspension of sentence, probation, pardon or release from confinement~~
35 ~~on any basis except pursuant to section 31-233, subsection A or B until~~
36 ~~the sentence imposed by the court has been served, the person is eligible~~
37 ~~for release pursuant to section 41-1604.07 or the sentence is commuted.~~

38 ~~D. This state shall apply the aggregation prescribed by section~~
39 ~~13-1801, subsection B to violations of this section in determining the~~
40 ~~applicable punishment.~~

41 ~~E. For the purposes of this section: ,~~

42 ~~1. "gift card" has the SAME meaning prescribed in section 13-1813.~~

43 ~~2. "Scheme or artifice to defraud" includes a scheme or artifice to~~
44 ~~deprive a person of either of the following:~~

45 ~~(a) The intangible right of honest services.~~

46 ~~(b) A gift card or gift card information. >>~~

47 Enroll and engross to conform

48 Amend title to conform

DAVID GOWAN

02/26/2025
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