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**HOUSE FLOOR AMENDMENTS**

2025 Regular Session

Amendments proposed by Representative Bacala to Engrossed Senate Bill No. 38 by Senator Hensgens

1 AMENDMENT NO. 1

2 Delete the set of committee amendments (#2896) adopted by the House Committee on  
3 Administration of Criminal Justice.

4 AMENDMENT NO. 2

5 On page 1, line 2, after “To” delete the remainder of the line and delete lines 3 through 6 in  
6 their entirety and insert “amend and reenact R.S. 14:70.4(D) through (G) and to enact R.S.  
7 14:70.4(H), relative to misappropriations without violence; to provide relative to the crime  
8 of access device fraud; to provide relative to the possession of counterfeit or misappropriated  
9 access devices; to add gift cards to the definition of access device; to provide for a definition  
10 of gift card; and to provide for related matters.”

11 AMENDMENT NO. 3

12 On page 1, delete line 8 through 17 in their entirety and delete pages 2 and 3 in their entirety  
13 and insert the following:

14 “Section 1. R.S. 14:70.4(D) through (G) are hereby amended and reenacted and R.S.  
15 14:70.4(H) is hereby enacted to read as follows:

16 §70.4. Access device fraud

\* \* \*

17  
18 **D. No person shall knowingly and with the intent to defraud possess**  
19 **fifteen or more counterfeit or misappropriated access devices.**

20 ~~D. E.~~ **E.** As used **herein in this Section:**

21 (1) "Access device" means a person's social security number, driver's license  
22 number, birth date, mother's maiden name, checking account numbers, savings  
23 account numbers, personal identification numbers, electronic identification numbers,  
24 digital signatures, **gift card, account information related to a gift card,** or other  
25 means of account access that can be used to obtain anything of value, whether  
26 contemporaneously or not.

27 (2) "Counterfeit access device" means an access device that is fictitious,  
28 altered, or forged.

29 (3) "Device-making equipment" means any instrumentality, mechanism, or  
30 impression designed or primarily used for making an access device or counterfeit  
31 access device.

32 **(4) “Gift card” means a card, code, or device that is issued to a**  
33 **consumer on a prepaid basis in a specified amount and is redeemable in**  
34 **exchange for goods or services. The value of the gift is either the maximum face**  
35 **value of the card when it is held for sale by the merchant or the actual value of**  
36 **the funds deposited with the merchant at the time of the activation and**  
37 **purchase.**

38 ~~(4)~~ **(5)** "Transfer" means sell, give, provide, or transmit.

39 E. **F.**(1) A person who commits the crime of access device fraud when the  
40 misappropriation or taking amounts to a value of twenty-five thousand dollars or

1 more shall be imprisoned at hard labor for not more than twenty years, ~~or~~ fined not  
 2 more than fifty thousand dollars, or both.

3 (2) When the misappropriation or taking amounts to a value of five thousand  
 4 dollars or more, but less than a value of twenty-five thousand dollars, the offender  
 5 shall be imprisoned; with or without hard labor; for not more than ten years, ~~or~~ fined  
 6 not more than ten thousand dollars, or both.

7 (3) When the misappropriation or taking amounts to a value of one thousand  
 8 dollars or more, but less than a value of five thousand dollars, the offender shall be  
 9 imprisoned; with or without hard labor; for not more than five years, ~~or may be~~ fined  
 10 not more than three thousand dollars, or both.

11 (4) When the misappropriation or taking amounts to a value of less than one  
 12 thousand dollars, the offender shall be imprisoned for not more than six months, ~~or~~  
 13 fined not more than five hundred dollars, or both.

14 (5) Upon a third or subsequent conviction of theft, the offender shall be  
 15 imprisoned; with or without hard labor; for not more than two years, ~~or may be~~ fined  
 16 not more than two thousand dollars, or both.

17 ~~F. G.~~ In addition to any other penalty imposed under this Section, the court  
 18 shall order restitution as a part of the sentence. ~~Restitution may include payment for~~  
 19 ~~any cost incurred by the victim, including attorney fees, costs associated in clearing~~  
 20 ~~the credit history or credit ratings of the victim, or costs incurred in connection with~~  
 21 ~~any civil or administrative proceedings to satisfy any debt, lien, or other obligation~~  
 22 ~~of the victim arising as a result of the actions of the defendant~~ **in accordance with**  
 23 **Code of Criminal Procedure Article 883.2.**

24 ~~G. H.~~ When there has been a misappropriation or taking by a number of  
 25 distinct acts of the offender, the aggregate amount of the misappropriation or taking  
 26 shall determine the grade of the offense. For purposes of this Subsection, distinctive  
 27 acts of the offender do not have to involve the same victim."