

119TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend title 18, United States Code, to enhance penalties for certain cases of gift card fraud, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mrs. MOODY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend title 18, United States Code, to enhance penalties for certain cases of gift card fraud, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Saving Wallets and  
5       Increasing Penalties for Elder Scams Act” or the  
6       “SWIPES Act”.

7       **SEC. 2. PREVENTING GIFT CARD FRAUD.**

8       (a) AMENDMENTS TO SECTION 1029.—Section 1029  
9       of title 18, United States Code, is amended—

10               (1) in subsection (a)(6)—

1 (A) in subparagraph (A), by striking “;  
2 or” and inserting a semicolon;

3 (B) in subparagraph (B), by striking the  
4 semicolon and inserting “; or”; and

5 (C) by adding at the end the following:

6 “(C) directly or indirectly obtaining an ac-  
7 cess device, including by creating, maintaining,  
8 or using a website that collects access device in-  
9 formation;”;

10 (2) in subsection (c)(1)—

11 (A) in subparagraph (A)—

12 (i) in clause (i), by striking “10  
13 years” and inserting “20 years”; and

14 (ii) in clause (ii), by striking “15  
15 years” and inserting “25 years”;

16 (B) in subparagraph (B)—

17 (i) by striking “20 years” and insert-  
18 ing “30 years”; and

19 (ii) by striking “; and” and inserting  
20 a semicolon;

21 (C) in subparagraph (C), by striking the  
22 period and inserting a semicolon;

23 (D) by adding at the end the following:

24 “(D) in the case of an offense under para-  
25 graph (3) of subsection (a) in which the amount

1 of access devices that are counterfeit or unau-  
2 thorized exceeds 500 devices, a fine under this  
3 title or imprisonment for not more than 25  
4 years, or both; and

5 “(E) in the case of an offense under para-  
6 graph (3) of subsection (a) in which the amount  
7 of access devices that are counterfeit or unau-  
8 thorized exceeds 1,000 devices, a fine under this  
9 title or imprisonment for not more than 30  
10 years, or both.”; and

11 (3) in subsection (e)—

12 (A) in paragraph (1)—

13 (i) by striking “or other telecommuni-  
14 cations service, equipment, or instrument  
15 identifier, or other means of account ac-  
16 cess” and inserting “gift card, password,  
17 cryptographic key, token, digital asset pri-  
18 vate key, digital asset recovery phrase,  
19 passkey, one-time password, hardware se-  
20 curity key credential, or other physical or  
21 digital credential, authentication mecha-  
22 nism, or programmatic identifier”; and

23 (ii) by inserting “or other assets”  
24 after “transfer of funds”;

1 (B) in paragraph (10), by striking “; and”  
2 and inserting a semicolon;

3 (C) in paragraph (11), by striking the pe-  
4 riod and inserting a semicolon; and

5 (D) by adding at the end the following:

6 “(12) the term ‘gift card’ means a physical or  
7 virtual card, code, or device that may be issued to  
8 a consumer on a prepaid basis, in whole or in part,  
9 for personal, family, or household purposes in a  
10 specified amount, regardless of whether that amount  
11 may be increased or reloaded in exchange for pay-  
12 ment, and that is redeemable upon presentation by  
13 a consumer at a single merchant, a group of affili-  
14 ated merchants, or a group of unaffiliated mer-  
15 chants, including gift card redemption information.”.

16 (b) INCREASED PENALTIES FOR FRAUD AGAINST  
17 PERSONS OVER THE AGE OF 60.—

18 (1) IN GENERAL.—Chapter 47 of title 18,  
19 United States Code, is amended by inserting after  
20 section 1029 the following:

21 **“§ 1029A. Fraud against persons over the age of 60**

22 “(a) DEFINITION.—For purposes of this section:

23 “(1) COVERED FELONY VIOLATION.—The term  
24 ‘covered felony violation’ means any offense that is  
25 a felony violation of—

1                   “(A) any provision contained in this chap-  
2                   ter (relating to fraud and false statements),  
3                   other than this section; and

4                   “(B) any provision contained in chapter 63  
5                   (relating to mail, bank, and wire fraud).

6                   “(2) KNOWINGLY.—The term ‘knowingly’  
7                   means that the defendant acts with actual knowl-  
8                   edge of the victim’s age, deliberate ignorance of the  
9                   victim’s age, or with reckless disregard for the vic-  
10                  tim’s age.

11                  “(b) OFFENSE.—Whoever, during and in relation to  
12                  any covered felony violation, knowingly commits such of-  
13                  fense against a person over the age of 60 shall be sen-  
14                  tenced to a term of imprisonment of 2 years, in addition  
15                  to the term of imprisonment imposed for the covered fel-  
16                  ony violation.

17                  “(c) CONSECUTIVE SENTENCE.—Notwithstanding  
18                  any other provision of law—

19                  “(1) a court shall not place on probation any  
20                  person sentenced under subsection (b), nor shall the  
21                  term of imprisonment imposed on a person under  
22                  subsection (b) run concurrently with any other term  
23                  of imprisonment, except as provided in paragraph  
24                  (2); and

1           “(2) a term of imprisonment imposed on a per-  
2           son under this section may, in the discretion of the  
3           court, run concurrently, in whole or in part, only  
4           with another term of imprisonment that is imposed  
5           by the court at the same time on that person for an  
6           additional violation of this section, provided that  
7           such discretion shall be exercised in accordance with  
8           any applicable guidelines and policy statements  
9           issued by the United States Sentencing Commission  
10          pursuant to section 994 of title 28.”.

11           (2) CLERICAL AMENDMENT.—The table of sec-  
12          tions for chapter 47 of title 18, United States Code,  
13          is amended by inserting the following item after the  
14          item for section 1029:

“1029A. Fraud against persons over the age of 60.”.

15           (c) DEFINING MONETARY INSTRUMENTS.—Section  
16          1956(c)(5) of title 18, United States Code, is amended—

17           (1) by striking “means (i) coin or currency”  
18          and inserting the following: “means—

19                       “(A) coin or currency”;

20           (2) by striking “, or (ii) investment securities”  
21          and inserting the following: “;

22                       “(B) investment securities”; and

23           (3) in subparagraph (B), as so designated, by  
24          striking the semicolon and inserting “; or”; and

25           (4) by adding at the end the following:

1                   “(C) a gift card, as defined in section  
2                   1029(e).”.