

4771--E

2015-2016 Regular Sessions

I N S E N A T E

April 15, 2015

Introduced by Sen. FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to restricting fees on gift cards and gift certificates

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 3 and 5 of section 396-i of the general busi-
2 ness law, as amended by chapter 507 of the laws of 2004, are amended and
3 a new subdivision 5-a is added to read as follows:
4 3. The terms and conditions of a gift certificate store credit shall
5 be clearly and conspicuously stated thereon. Terms and conditions shall
6 include the expiration date, whether any fees are assessed against the
7 balance of the gift certificate, and whether a fee will be charged for
8 the replacement of a gift certificate that is lost, stolen, or
9 destroyed, IF ANY. Additional terms and conditions including, but not
10 [be] limited to, policies related to refunds, warranties, changes in
11 terms and conditions, THE PROCEDURE FOR THE REPLACEMENT OF A GIFT
12 CERTIFICATE, IF ANY, assignment and waiver shall be conspicuously print-
13 ed: (a) on the gift certificate; or (b) on an envelope or packaging

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD10404-19-6

1 containing the gift certificate, provided that a toll free telephone
2 number to access the additional terms and conditions is printed on the
3 gift certificate; or (c) on an accompanying [printed] document, provided
4 that a toll free telephone number to access the additional terms and
5 conditions is printed on the gift certificate.

6 5. (a) No retroactive fees shall be assessed against a gift certif-
7 icate.

8 (b) No monthly service fees may be assessed against the balance of a
9 gift certificate prior to the [thirteenth] TWENTY-FIFTH month of dorman-
10 cy.

11 (c) A SERVICE FEE MAY BE ASSESSED AFTER THE TWENTY-FOURTH MONTH OF
12 DORMANCY PROVIDED THAT ANY SUCH FEE SHALL BE WAIVED AND THE GIFT CERTIF-
13 ICATE REPLENISHED TO ITS VALUE PRIOR TO SUCH FEES BEING ASSESSED WHERE
14 THE HOLDER OF SUCH GIFT CERTIFICATE PRESENTS THE CERTIFICATE WITHIN
15 THREE YEARS OF ISSUE.

16 (D) For the purposes of this subdivision, "dormancy" shall mean non-
17 use of a gift certificate. Use of a gift certificate shall include, but
18 not be limited to, adding value, or purchases.

19 5-A. IT SHALL BE UNLAWFUL FOR ANY PERSON TO SELL OR ISSUE A GIFT
20 CERTIFICATE WHERE THE UNDERLYING FUNDS ARE SUBJECT TO AN EXPIRATION DATE
21 WHICH IS EARLIER THAN FIVE YEARS AFTER THE DATE ON WHICH THE GIFT
22 CERTIFICATE WAS ISSUED, OR THE DATE ON WHICH FUNDS WERE LAST LOADED TO A
23 STORE GIFT CARD. THE TERMS OF EXPIRATION SHALL BE CLEARLY AND CONSPICU-
24 OUSLY STATED ON THE GIFT CERTIFICATE.

25 S 2. Subdivision 3-b of section 396-i of the general business law, as
26 amended by chapter 507 of the laws of 2004, is amended to read as
27 follows:

28 3-b. Subparagraph (i) of paragraph (a) of subdivision two-a AND SUBDI-
29 VISION FIVE-A of this section shall not apply to gift certificates:

30 (a) sold below face value or at a volume discount to employees, to
31 nonprofit and charitable organizations, or educational institutions for
32 fundraising purposes; or

33 (b) distributed to a consumer or employee pursuant to an awards,
34 rewards, loyalty, or promotional program without any consideration being
35 given in exchange for the gift certificate by the consumer or employee.

36 S 3. This act shall take effect on the ninetieth day after it shall
37 have become a law and shall apply to gift certificates issued on or
38 after such date.