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Cal. No. 302

2015-2016 Regular Sessions

I N A S S E M B L Y

May 20, 2015

Introduced by M. of A. DINOWITZ, ABINANTI -- read once and referred to the Committee on Consumer Affairs and Protection -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the special order of third reading -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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, THE PROCEDURE FOR and whether a fee
8 will be charged for the replacement of a gift certificate that is lost,
9 stolen, or destroyed, IF ANY. Additional terms and conditions includ-
10 ing, but not be limited to, policies related to refunds, warranties,
11 changes in terms and conditions, assignment and waiver shall be conspic-
12 uously printed: (a) on the gift certificate; or (b) on an envelope or
13 packaging containing the gift certificate, provided that a toll free
14 telephone number to access the additional terms and conditions is print-
15 ed on the gift certificate; or (c) on an accompanying printed document,

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

LBD10404-15-6

1 provided that a toll free telephone number to access the additional
2 terms and conditions is printed on the gift certificate.

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

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

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

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

16 5-A. IT SHALL BE UNLAWFUL FOR ANY PERSON TO SELL OR ISSUE A GIFT
17 CERTIFICATE THAT IS SUBJECT TO AN EXPIRATION DATE WHICH IS EARLIER THAN
18 FIVE YEARS AFTER THE DATE ON WHICH THE GIFT CERTIFICATE WAS ISSUED, OR
19 THE DATE ON WHICH FUNDS WERE LAST LOADED TO A STORE GIFT CARD. THE TERMS
20 OF EXPIRATION SHALL BE CLEARLY AND CONSPICUOUSLY STATED ON THE GIFT
21 CERTIFICATE.

22 S 2. This act shall take effect on the ninetieth day after it shall
23 have become a law and shall apply to gift certificates issued on or
24 after such date.