

4771--A

2015-2016 Regular Sessions

I N   S E N A T E

April 15, 2015

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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

AN ACT to amend the general business law, in relation to prohibiting 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 to  
3     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,  
16    provided that a toll free telephone number to access the additional  
17    terms and conditions is printed on the gift certificate.  
18    5. (a) No [retroactive] fees shall be assessed against a gift certif-  
19    icate THAT IS ONLY USABLE AT A SINGLE MERCHANT OR AN AFFILIATED GROUP OF  
20    MERCHANTS THAT SHARE THE SAME NAME, MARK OR LOGO.  
21    (b) No monthly service fees may be assessed against the balance of a  
22    gift certificate [prior to], EXCEPT THAT GIFT CERTIFICATES THAT ARE

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

LBD10404-07-5

1 USABLE AT MULTIPLE, UNAFFILIATED MERCHANTS OR SERVICE PROVIDERS MAY  
2 ASSESS MONTHLY SERVICE FEES AFTER the thirteenth month of dormancy.

3 (c) For the purposes of this subdivision, "dormancy" shall mean non-  
4 use of a gift certificate. Use of a gift certificate shall include, but  
5 not be limited to, adding value, or purchases.

6 S 2. Subdivision 3-a and 3-b of section 396-i of the general business  
7 law, as amended by chapter 507 of the laws of 2004, are amended to read  
8 as follows:

9 3-a. The requirements of subdivisions two-a [and], three AND FIVE of  
10 this section shall not apply to a gift certificate that has no terms and  
11 conditions.

12 3-b. Subparagraph (i) of paragraph (a) of subdivision two-a AND FIVE  
13 of this section shall not apply to gift certificates:

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

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

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