

4771--C

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

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.

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

LBD10404-13-5

1 5. (a) [No retroactive] FOR GIFT CERTIFICATES THAT ARE ONLY USABLE AT
2 A SINGLE MERCHANT OR AN AFFILIATED GROUP OF MERCHANTS THAT SHARE THE
3 SAME NAME, MARK OR LOGO, NO fees shall be assessed against THE BALANCE
4 OF a gift certificate WITH THE EXCEPTION OF A FEE FOR THE REPLACEMENT OF
5 A GIFT CERTIFICATE THAT IS LOST, STOLEN OR DESTROYED.

6 (b) [No] FOR GIFT CERTIFICATES THAT ARE USABLE AT MULTIPLE, UNAFFIL-
7 IATED MERCHANTS OR SERVICE PROVIDERS AND FOR GIFT CERTIFICATES DEFINED
8 IN PARAGRAPHS (A) AND (B) OF SUBDIVISION THREE-B OF THIS SECTION, NO
9 monthly service fees may be assessed against the balance of a gift
10 certificate prior to the thirteenth month of dormancy, AND NO RETROAC-
11 TIVE FEES SHALL BE ASSESSED AGAINST THE BALANCE OF A GIFT CERTIFICATE.

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

15 (D) THE PROHIBITION OF DORMANCY FEES PROVIDED FOR IN THIS SUBDIVISION,
16 SHALL NOT APPLY TO ANY CARD ISSUED IN THE NAME OF A RETAIL FOOD STORE
17 FOR PURCHASES MADE AT SUCH RETAIL FOOD STORE. FOR PURPOSES OF THIS PARA-
18 GRAPH, "RETAIL FOOD STORE" SHALL MEAN ANY ESTABLISHMENT OR CHAIN OF
19 ESTABLISHMENTS, WHERE FOOD AND FOOD PRODUCTS ARE OFFERED TO THE CONSUMER
20 AND INTENDED FOR OFF-PREMISES CONSUMPTION. THE TERM DOES NOT INCLUDE ANY
21 ESTABLISHMENT, OR CHAIN OF ESTABLISHMENTS, WHICH HANDLE ONLY PRE-PACK-
22 AGED, NON-POTENTIALLY HAZARDOUS FOODS, ROADSIDE MARKETS THAT OFFER ONLY
23 FRESH FRUITS AND FRESH VEGETABLES FOR SALE, FOOD SERVICE ESTABLISHMENTS
24 AS DEFINED IN SECTION FIVE HUNDRED OF THE AGRICULTURE AND MARKETS LAW,
25 OR FOOD AND BEVERAGE VENDING MACHINES. THE TERM ALSO DOES NOT INCLUDE
26 ANY RETAIL FOOD STORE, OR CHAIN OF RETAIL FOOD STORES, WHERE THE SALE OF
27 FOOD AND FOOD PRODUCTS, PERSONAL CARE ITEMS, PAPER PRODUCTS, BABY CARE
28 ITEMS, AND HOUSEHOLD CLEANING PRODUCTS, DO NOT CONSTITUTE MORE THAN
29 SIXTY-FIVE PERCENT OF THEIR ANNUAL RETAIL INVENTORY BY EITHER ITEMS SOLD
30 OR GROSS RECEIPTS RECEIVED.

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