# STATE OF NEW YORK

7714

# IN SENATE

January 7, 2022

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the general business law, in relation to the definition of gift certificate

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. Paragraph (b) of subdivision 1 of section 396-i of the general business law, as amended by a chapter of the laws of 2021 amending the general business law relating to fees for gift cards, as proposed in legislative bills numbers S. 3467-B and A. 4629-C, is amended to read as follows:

(b) Gift certificate shall not include **(i)** an electronic payment device linked to a deposit account or which is covered by the exclusion set forth in 15 U.S.C. § 1693[~~l-1~~] **L-1**(a)(2)(D)(ii), **(ii) a fare payment card or electronic payment device used to pay for travel on a public transportation authority system,** or **(iii)** prepaid telephone calling cards regulated under section ninety-two-f of the public service law. Gift certificate also shall not include flexible spending arrangements as defined in Section 106(c)(2) of the Internal Revenue Code, 26 U.S.C. § 106(c)(2); flexible spending accounts subject to Section 125 of the Internal Revenue Code, 26 U.S.C. § 125; Archer MSAs as defined in Section 220(d) of the Internal Revenue Code, 26 U.S.C. § 220(d); dependent care reimbursement accounts subject to Section 129 of the Internal Revenue Code, 26 U.S.C. § 129; health savings accounts subject to Section 223(d) of the Internal Revenue Code, 26 U.S.C. § 223(d), as amended by Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173; or similar accounts from which, under the Internal Revenue Code and its implementing regulations, individuals may pay medical expenses, health care expenses, dependent care expenses, or similar expenses on a pretax basis. Gift certificate also shall not include a prepaid discount card or program used to purchase identified goods or services at a price or percentage below the normal and customary price; provided that any expiration date of the prepaid discount card or program is clearly and conspicuously

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

LBD02680-11-2

disclosed. Gift certificate also shall not include payroll cards or other electronic payment devices which are linked to a deposit account and which are given in exchange for goods or services rendered.

§ 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2021 amending the general business law relating to fees for gift cards, as proposed in legislative bills numbers S. 3467-B and A. 4629-C, takes effect.