
By: **Delegates Quinter, Bobo, Carter, Feldman, Jones, Montgomery, Pendergrass, F. Turner, and ~~Vaughn~~ Vaughn, Doory, Harrison, Kirk, Krebs, Krysiak, Love, McHale, Taylor, and Trueschler**

Introduced and read first time: February 3, 2005

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: April 1, 2005

CHAPTER _____

1 AN ACT concerning

2 **Commercial Law - Gift Certificates and Gift Cards - Expiration and Service**
 3 **Fees - ~~Prohibition~~ Prohibitions and Restrictions**

4 FOR the purpose of prohibiting a person from selling a gift certificate that ~~contains is~~
 5 subject to an expiration date unless certain conditions are met; prohibiting a
 6 person from selling a gift certificate that contains a service fee or certain fees or
 7 charges within a certain period after purchase; requiring disclosure of certain
 8 terms and conditions of gift certificates in a certain manner; prohibiting a
 9 change of certain terms or conditions after purchase; providing that a gift
 10 certificate sold in violation of this Act ~~shall~~ may be considered valid and shall
 11 not be subject to an expiration date or service any fee; authorizing a certain gift
 12 card to be subject to expiration or a postsale fee if certain disclosures are printed
 13 on the gift card in a certain manner; establishing certain disclosure
 14 requirements for certain gift cards sold by electronic means and by telephonic
 15 means; providing for the application of this Act; defining a certain term;
 16 providing for a delayed effective date; and generally relating to the expiration of
 17 and service fees on gift certificates and gift cards.

18 BY adding to

19 Article - Commercial Law

20 Section 14-1319 and 14-1320

21 Annotated Code of Maryland

22 (2000 Replacement Volume and 2004 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

24 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Commercial Law

2 14-1319.

3 (A) (1) IN THIS SECTION, "GIFT CERTIFICATE" MEANS A DEVICE
4 CONSTRUCTED OF PAPER, PLASTIC, OR ANY OTHER MATERIAL THAT IS:

5 (I) SOLD BY A PERSON FOR A CASH VALUE THAT CAN BE USED TO
6 PURCHASE GOODS OR SERVICES; OR

7 (II) ISSUED AS A STORE CREDIT FOR RETURNED GOODS.

8 (2) "GIFT CERTIFICATE" DOES NOT INCLUDE:

9 (I) A PREPAID TELEPHONE CALLING CARD;

10 (II) A PREPAID TECHNICAL SUPPORT CARD;

11 (III) A PREPAID CARD FOR INTERNET SERVICES;

12 (IV) A COUPON FOR DISCOUNTED GOODS OR SERVICES; ~~OR~~

13 (V) A GIFT CERTIFICATE THAT:

14 ~~+~~ IS DISTRIBUTED TO A CONSUMER AN INDIVIDUAL UNDER
15 AN AWARDS, LOYALTY, OR PROMOTIONAL PROGRAM IN WHICH THE RECIPIENT DOES
16 NOT GIVE MONEY OR VALUE FOR THE GIFT CERTIFICATE; OR

17 (VI) A GIFT CARD THAT:

18 1. IS PROCESSED THROUGH A NATIONAL CREDIT OR DEBIT
19 CARD SERVICE; AND

20 2. MAY BE USED TO PURCHASE GOODS OR SERVICES FROM
21 MULTIPLE UNAFFILIATED SELLERS OF GOODS OR SERVICES.

22 ~~(B) A PERSON MAY NOT SELL A GIFT CERTIFICATE THAT CONTAINS:~~

23 ~~(1) AN EXPIRATION DATE UNLESS THE EXPIRATION DATE:~~

24 ~~(I) IS AT LEAST 5 YEARS AFTER THE DATE OF ISSUANCE OF THE~~
25 ~~GIFT CERTIFICATE; AND~~

26 ~~(II) IS PRINTED CLEARLY IN A VISIBLE PLACE ON THE FRONT OR~~
27 ~~BACK OF THE GIFT CERTIFICATE IN AT LEAST 10 POINT FONT; OR~~

28 ~~(2) A SERVICE FEE, INCLUDING A SERVICE FEE FOR DORMANCY.~~

29 (B) A PERSON MAY NOT SELL A GIFT CERTIFICATE THAT, WITHIN 3 YEARS
30 AFTER THE DATE OF PURCHASE, IS SUBJECT TO EXPIRATION OR A FEE OR CHARGE
31 OF ANY KIND.

1 (C) ANY TERM OR CONDITION CONCERNING EXPIRATION OR A FEE OR
2 CHARGE THAT TAKES EFFECT MORE THAN 3 YEARS AFTER THE DATE OF PURCHASE
3 MUST BE PRINTED CLEARLY IN AT LEAST 10 POINT TYPE IN A VISIBLE PLACE ON:

4 (1) THE FRONT OR BACK OF THE GIFT CERTIFICATE;

5 (2) A STICKER PERMANENTLY AFFIXED TO THE GIFT CERTIFICATE; OR

6 (3) AN ENVELOPE CONTAINING THE GIFT CERTIFICATE.

7 (D) A TERM OR CONDITION DISCLOSED UNDER SUBSECTION (C) OF THIS
8 SECTION MAY NOT BE CHANGED AFTER THE DATE OF PURCHASE.

9 ~~(C)~~ ~~(D)~~ (E) A GIFT CERTIFICATE THAT IS SOLD IN VIOLATION OF
10 ~~SUBSECTION (B) OF THIS SECTION SHALL BE CONSIDERED VALID AND MAY NOT BE~~
11 ~~SUBJECT TO AN EXPIRATION DATE OR SERVICE ANY FEE OR CHARGE.~~

12 14-1320.

13 (A) THIS SECTION APPLIES TO A GIFT CARD THAT:

14 (1) IS PROCESSED THROUGH A NATIONAL CREDIT OR DEBIT CARD
15 SERVICE; AND

16 (2) MAY BE USED TO PURCHASE GOODS OR SERVICES FROM MULTIPLE
17 UNAFFILIATED SELLERS OF GOODS AND SERVICES.

18 (B) A GIFT CARD MAY BE SUBJECT TO EXPIRATION OR A POSTSALE FEE,
19 INCLUDING A SERVICE FEE, DORMANCY FEE, ACCOUNT MAINTENANCE FEE,
20 CASH-OUT FEE, GIFT CARD REPLACEMENT FEE, ACTIVATION FEE, OR REACTIVATION
21 FEE, IF THE FOLLOWING DISCLOSURES ARE PRINTED CLEARLY IN A VISIBLE PLACE
22 ON THE FRONT OR BACK OF THE GIFT CARD IN AT LEAST 10 POINT TYPE:

23 (1) WITH RESPECT TO THE EXPIRATION DATE, THE DATE ON WHICH THE
24 GIFT CARD EXPIRES; AND

25 (2) WITH RESPECT TO A POSTSALE FEE:

26 (I) THE AMOUNT OF THE FEE;

27 (II) THE CIRCUMSTANCES UNDER WHICH THE FEE WILL BE
28 IMPOSED;

29 (III) THE FREQUENCY WITH WHICH THE FEE WILL BE IMPOSED;
30 AND

31 (IV) WHETHER THE FEE IS TRIGGERED BY INACTIVITY.

32 (C) IF THE DISCLOSURES REQUIRED UNDER SUBSECTION (B) OF THIS
33 SECTION ARE HIDDEN BY THE PACKAGING OF THE GIFT CARD, THE SELLER SHALL

1 GIVE THE PURCHASER A WRITTEN STATEMENT OF THE DISCLOSURES BEFORE THE
2 GIFT CARD IS SOLD.

3 (D) IN ADDITION TO PRINTING THE INFORMATION REQUIRED UNDER
4 SUBSECTION (B) OF THIS SECTION ON A GIFT CARD:

5 (1) IF A GIFT CARD IS SOLD BY ELECTRONIC MEANS, THE SELLER SHALL
6 INCLUDE A CONSPICUOUS WRITTEN STATEMENT OF THE INFORMATION IN THE
7 ELECTRONIC MESSAGE OFFERING THE GIFT CARD; AND

8 (2) IF A GIFT CARD IS SOLD BY TELEPHONIC MEANS, THE SELLER,
9 BEFORE THE GIFT CARD IS SOLD, SHALL STATE THE INFORMATION TO THE
10 PURCHASER.

11 (E) A TERM OR CONDITION DISCLOSED UNDER SUBSECTION (B) OF THIS
12 SECTION MAY NOT BE CHANGED AFTER THE DATE OF PURCHASE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
14 construed to apply only prospectively and may not be applied or interpreted to have
15 any effect on or application to any gift certificate or gift card issued ~~issued~~ sold before the
16 effective date of this Act.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 July 1, ~~2005~~ 2006.