

*ENROLLED BILL*  
*-- Finance/Economic Matters --*

Introduced by **Senators Klausmeier, Green, Hogan, Hollinger, Hooper, Kramer, McFadden, and Munson**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

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 or certain fees or  
6 charges within a certain period after purchase; requiring disclosure of certain  
7 terms and conditions of gift certificates in a certain manner; prohibiting a person  
8 from selling a gift certificate that contains is subject to a service postsale fee  
9 prohibiting a change of certain terms or conditions after purchase except under  
10 certain circumstances; providing that a gift certificate sold or issued in violation  
11 of this Act shall be considered valid and shall may not be subject to an expiration  
12 date or a service any fee; prohibiting a gift certificate issued as a store credit  
13 from being subject to expiration or a service fee; authorizing a certain gift card  
14 to be subject to expiration or a postsale fee if certain disclosures are printed on  
15 the gift card in a certain manner; establishing certain disclosure requirements  
16 for certain gift cards sold or issued by electronic means and by telephonic

1 means; providing that a violation of this Act is an unfair or deceptive trade  
 2 practice under the Maryland Consumer Protection Act and is subject to certain  
 3 enforcement and penalty provisions; providing for the application of this Act;  
 4 defining a certain term; *providing for a delayed effective date*; and generally  
 5 relating to the expiration of and ~~service~~ fees on gift certificates *and gift cards*.

6 BY repealing and reenacting, with amendments,

7 Article - Commercial Law

8 Section ~~13-301(14)(xx)~~

9 Annotated Code of Maryland

10 (2000 Replacement Volume and 2004 Supplement)

11 BY adding to

12 Article - Commercial Law

13 Section ~~13-301(14)(xxii)~~ and 13-301(14)(xxii), 14-1319, and 14-1320

14 Annotated Code of Maryland

15 (2000 Replacement Volume and 2004 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Commercial Law**

19 13-301.

20 Unfair or deceptive trade practices include any:

21 (14) Violation of a provision of:

22 (xx) Title 14, Subtitle 31 of this article, the Maryland Household

23 Goods Movers Act; [or]

24 (XXII) SECTION 14-1319 OR § 14-1320 OF THIS ARTICLE; OR

25 14-1319.

26 (A) (1) ~~(1)~~ (1) IN THIS ~~SECTION~~ ~~SUBSECTION~~ SECTION, "GIFT CERTIFICATE"

27 MEANS A DEVICE CONSTRUCTED OF PAPER, PLASTIC, OR ANY OTHER MATERIAL

28 THAT IS:

29 ~~(1)~~ (1) ~~1~~ 1 (I) SOLD OR ISSUED BY A PERSON FOR A CASH VALUE

30 THAT CAN BE USED TO PURCHASE GOODS OR SERVICES; OR

31 ~~(1)~~ (1) ~~2~~ 2 (II) ISSUED AS A STORE CREDIT FOR RETURNED GOODS.

32 ~~(2)~~ (2) ~~(1)~~ (1) "GIFT CERTIFICATE" DOES NOT INCLUDE:

33 ~~(1)~~ (1) ~~1~~ 1 (I) A PREPAID TELEPHONE CALLING CARD;

3 UNOFFICIAL COPY OF SENATE BILL 8

1 (H) 2 (II) A PREPAID TECHNICAL SUPPORT CARD;  
2 (HH) 3 (III) A PREPAID CARD FOR INTERNET SERVICES;  
3 (IV) 4 (IV) A COUPON FOR DISCOUNTED GOODS OR SERVICES;  
4 OR

5 (V) 5 (V) A GIFT CERTIFICATE THAT IS DISTRIBUTED TO A  
6 CONSUMER AN INDIVIDUAL UNDER AN AWARDS, LOYALTY, OR PROMOTIONAL  
7 PROGRAM IN WHICH THE RECIPIENT DOES NOT GIVE MONEY OR VALUE FOR THE  
8 GIFT CERTIFICATE; OR

9 6 (VI) A GIFT CARD THAT:  
10 1 IS PROCESSED THROUGH A NATIONAL CREDIT OR DEBIT  
11 CARD SERVICE AND THAT; AND

12 2 MAY BE USED TO PURCHASE GOODS OR SERVICES FROM  
13 MULTIPLE UNAFFILIATED SELLERS OF GOODS OR SERVICES.

14 (B) (2) A PERSON MAY NOT SELL A GIFT CERTIFICATE THAT CONTAINS IS  
15 SUBJECT TO:

16 (1) (1) AN EXPIRATION DATE UNLESS THE EXPIRATION DATE:

17 (1) 1 IS AT LEAST 5 YEARS AFTER THE DATE OF ISSUANCE OF  
18 THE GIFT CERTIFICATE; AND

19 (1) 2 IS PRINTED CLEARLY IN A VISIBLE PLACE ON THE FRONT  
20 OR BACK OF THE GIFT CERTIFICATE IN AT LEAST 10 POINT FONT TYPE; OR

21 (2) (1) A SERVICE POSTSALE FEE, INCLUDING A SERVICE FEE FOR  
22 DORMANCY, DORMANCY FEE, ACCOUNT MAINTENANCE FEE, CASH OUT FEE, GIFT  
23 CERTIFICATE REPLACEMENT FEE, ACTIVATION FEE, OR REACTIVATION FEE.

24 (B) A PERSON MAY NOT SELL OR ISSUE A GIFT CERTIFICATE THAT, WITHIN 4  
25 YEARS AFTER THE DATE OF PURCHASE, IS SUBJECT TO EXPIRATION OR A FEE OR  
26 CHARGE OF ANY KIND.

27 (C) ANY TERM OR CONDITION CONCERNING EXPIRATION OR A FEE OR  
28 CHARGE THAT TAKES EFFECT MORE THAN 4 YEARS AFTER THE DATE OF PURCHASE  
29 MUST BE PRINTED CLEARLY IN AT LEAST 10 POINT TYPE IN A VISIBLE PLACE ON:

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

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

32 (3) AN ENVELOPE CONTAINING THE GIFT CERTIFICATE.

1 (D) UNLESS THE CHANGE BENEFITS THE CONSUMER, A TERM OR CONDITION  
 2 DISCLOSED UNDER SUBSECTION (C) OF THIS SECTION MAY NOT BE CHANGED AFTER  
 3 THE DATE OF PURCHASE OR ISSUANCE.

4 ~~(C)~~ ~~(3)~~ (E) A GIFT CERTIFICATE THAT IS SOLD OR ISSUED IN VIOLATION  
 5 OF ~~SUBSECTION (B) PARAGRAPH (2) OF THIS SECTION~~ SECTION SHALL  
 6 BE CONSIDERED VALID AND MAY NOT BE SUBJECT TO AN EXPIRATION DATE OR A  
 7 SERVICE ANY FEE OR CHARGE.

8 ~~(4)~~ (4) A GIFT CERTIFICATE ISSUED AS A STORE CREDIT MAY NOT BE  
 9 SUBJECT TO EXPIRATION OR A SERVICE FEE.

10 (F) A VIOLATION OF ANY PROVISION OF THIS SECTION:

11 (1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE  
 12 MEANING OF TITLE 13 OF THIS ARTICLE; AND

13 (2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS  
 14 CONTAINED IN TITLE 13 OF THIS ARTICLE, EXCEPT § 13-411 OF THIS ARTICLE.

15 14-1320.

16 ~~(B)~~ ~~(1)~~ (A) THIS SUBSECTION SECTION APPLIES TO A GIFT CARD THAT:

17 (1) IS PROCESSED THROUGH A NATIONAL CREDIT OR DEBIT CARD  
 18 SERVICE; AND

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

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

26 ~~(1)~~ (1) WITH RESPECT TO THE EXPIRATION DATE, THE DATE ON  
 27 WHICH THE GIFT CARD EXPIRES; AND

28 ~~(2)~~ (2) WITH RESPECT TO A POSTSALE FEE:

29 ~~1.~~ 1. (I) THE AMOUNT OF THE FEE;

30 ~~2.~~ 2. (II) THE CIRCUMSTANCES UNDER WHICH THE FEE WILL  
 31 BE IMPOSED;

32 ~~3.~~ 3. (III) THE FREQUENCY WITH WHICH THE FEE WILL BE  
 33 IMPOSED; AND

34 ~~4.~~ 4. (IV) WHETHER THE FEE IS TRIGGERED BY INACTIVITY.

1 ~~(3)~~ (C) IF THE DISCLOSURES REQUIRED UNDER PARAGRAPH (2) OF  
2 THIS SUBSECTION (B) OF THIS SECTION ARE HIDDEN BY THE PACKAGING OF THE  
3 GIFT CARD, THE SELLER OR ISSUER SHALL GIVE THE PURCHASER A WRITTEN  
4 STATEMENT OF THE DISCLOSURES BEFORE THE GIFT CARD IS SOLD OR ISSUED.

5 ~~(4)~~ (D) IN ADDITION TO PRINTING THE INFORMATION REQUIRED  
6 UNDER PARAGRAPH (2) OF THIS SUBSECTION (B) OF THIS SECTION ON A GIFT CARD:

7 ~~(1)~~ (1) IF A GIFT CARD IS SOLD OR ISSUED BY ELECTRONIC  
8 MEANS, THE SELLER OR ISSUER SHALL INCLUDE A CONSPICUOUS WRITTEN  
9 STATEMENT OF THE INFORMATION IN THE ELECTRONIC MESSAGE OFFERING THE  
10 GIFT CARD; AND

11 ~~(2)~~ (2) IF A GIFT CARD IS SOLD OR ISSUED BY TELEPHONIC  
12 MEANS, THE SELLER OR ISSUER, BEFORE THE GIFT CARD IS SOLD, SHALL STATE THE  
13 INFORMATION TO THE PURCHASER.

14 (E) UNLESS THE CHANGE BENEFITS THE CONSUMER, A TERM OR CONDITION  
15 DISCLOSED UNDER SUBSECTION (B) OF THIS SECTION MAY NOT BE CHANGED AFTER  
16 THE DATE OF PURCHASE OR ISSUANCE.

17 ~~(F)~~ (F) A VIOLATION OF ANY PROVISION OF THIS SECTION:

18 (1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE  
19 MEANING OF TITLE 13 OF THIS ARTICLE; AND

20 (2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS  
21 CONTAINED IN TITLE 13 OF THIS ARTICLE, EXCEPT THE PROVISIONS OF § 13-411 OF  
22 THIS ARTICLE.

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

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