

(PRE-FILED)

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By: **Senators Klausmeier, Green, Hogan, Hollinger, Hooper, Kramer,  
McFadden, and Munson**

Requested: July 13, 2004

Introduced and read first time: January 12, 2005

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 10, 2005

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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; prohibiting a  
 6 person from selling a gift certificate that ~~contains is~~ subject to a service postsale  
 7 fee; providing that a gift certificate sold in violation of this Act shall be  
 8 considered valid and shall may not be subject to an expiration date or a service  
 9 fee; prohibiting a gift certificate issued as a store credit from being subject to  
 10 expiration or a service fee; authorizing a certain gift card to be subject to  
 11 expiration or a postsale fee if certain disclosures are printed on the gift card in  
 12 a certain manner; establishing certain disclosure requirements for certain gift  
 13 cards sold by electronic means and by telephonic means; providing that a  
 14 violation of this Act is an unfair or deceptive trade practice under the Maryland  
 15 Consumer Protection Act and is subject to certain enforcement and penalty  
 16 provisions; providing for the application of this Act; defining a certain term; and  
 17 generally relating to the expiration of and service fees on gift certificates.

18 BY repealing and reenacting, with amendments,

19 Article - Commercial Law

20 Section 13-301(14)(xx)

21 Annotated Code of Maryland

22 (2000 Replacement Volume and 2004 Supplement)

23 BY adding to

1 Article - Commercial Law  
 2 Section 13-301(14)(xxii) and 14-1319  
 3 Annotated Code of Maryland  
 4 (2000 Replacement Volume and 2004 Supplement)

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

7 **Article - Commercial Law**

8 13-301.

9 Unfair or deceptive trade practices include any:

10 (14) Violation of a provision of:

11 (xx) Title 14, Subtitle 31 of this article, the Maryland Household  
 12 Goods Movers Act; [or]

13 (XXII) SECTION 14-1319 OF THIS ARTICLE; OR

14 14-1319.

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

17 (⊕) 1. SOLD BY A PERSON FOR A CASH VALUE THAT CAN BE  
 18 USED TO PURCHASE GOODS OR SERVICES; OR

19 (⊕) 2. ISSUED AS A STORE CREDIT FOR RETURNED GOODS.

20 (⊕) (II) "GIFT CERTIFICATE" DOES NOT INCLUDE:

21 (⊕) 1. A PREPAID TELEPHONE CALLING CARD;

22 (⊕) 2. A PREPAID TECHNICAL SUPPORT CARD;

23 (⊕) 3. A PREPAID CARD FOR INTERNET SERVICES;

24 (⊕) 4. A COUPON FOR DISCOUNTED GOODS OR SERVICES; OR

25 (⊕) 5. A GIFT CERTIFICATE THAT IS DISTRIBUTED TO A  
 26 CONSUMER AN INDIVIDUAL UNDER AN AWARDS, LOYALTY, OR PROMOTIONAL  
 27 PROGRAM IN WHICH THE RECIPIENT DOES NOT GIVE MONEY OR VALUE FOR THE  
 28 GIFT CERTIFICATE; OR

29 6. A GIFT CARD THAT IS PROCESSED THROUGH A NATIONAL  
 30 CREDIT OR DEBIT CARD SERVICE AND THAT MAY BE USED TO PURCHASE GOODS OR  
 31 SERVICES FROM MULTIPLE SELLERS OF GOODS OR SERVICES.

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

3 ~~(+)~~ (I) ~~AN EXPIRATION DATE~~ UNLESS THE EXPIRATION DATE:

4 ~~(+)~~ 1. IS AT LEAST 5 YEARS AFTER THE DATE OF ISSUANCE OF  
5 THE GIFT CERTIFICATE; AND

6 ~~(+)~~ 2. IS PRINTED CLEARLY IN A VISIBLE PLACE ON THE FRONT  
7 OR BACK OF THE GIFT CERTIFICATE IN AT LEAST 10-POINT ~~FONT~~ TYPE; OR

8 ~~(=)~~ (II) A ~~SERVICE~~ POSTSALE FEE, INCLUDING A SERVICE FEE ~~FOR~~  
9 ~~DORMANCY, DORMANCY FEE, ACCOUNT MAINTENANCE FEE, CASH-OUT FEE, GIFT~~  
10 CERTIFICATE REPLACEMENT FEE, ACTIVATION FEE, OR REACTIVATION FEE.

11 ~~(C)~~ (3) A GIFT CERTIFICATE THAT IS SOLD IN VIOLATION OF ~~SUBSECTION~~  
12 ~~(B)~~ PARAGRAPH (2) OF THIS SECTION ~~SUBSECTION~~ SHALL BE CONSIDERED VALID  
13 AND MAY NOT BE SUBJECT TO ~~AN EXPIRATION DATE~~ OR A SERVICE FEE.

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

16 (B) (1) THIS SUBSECTION APPLIES TO A GIFT CARD THAT IS PROCESSED  
17 THROUGH A NATIONAL CREDIT OR DEBIT CARD SERVICE.

18 (2) 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 (I) WITH RESPECT TO THE EXPIRATION DATE, THE DATE ON  
24 WHICH THE GIFT CARD EXPIRES; AND

25 (II) WITH RESPECT TO A POSTSALE FEE:

26 1. THE AMOUNT OF THE FEE;

27 2. THE CIRCUMSTANCES UNDER WHICH THE FEE WILL BE  
28 IMPOSED;

29 3. THE FREQUENCY WITH WHICH THE FEE WILL BE  
30 IMPOSED; AND

31 4. WHETHER THE FEE IS TRIGGERED BY INACTIVITY.

32 (3) IF THE DISCLOSURES REQUIRED UNDER PARAGRAPH (2) OF THIS  
33 SUBSECTION ARE HIDDEN BY THE PACKAGING OF THE GIFT CARD, THE SELLER  
34 SHALL GIVE THE PURCHASER A WRITTEN STATEMENT OF THE DISCLOSURES  
35 BEFORE THE GIFT CARD IS SOLD.

1           (4)     IN ADDITION TO PRINTING THE INFORMATION REQUIRED UNDER  
2 PARAGRAPH (2) OF THIS SUBSECTION ON A GIFT CARD;

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

6           (II)    IF A GIFT CARD IS SOLD BY TELEPHONIC MEANS, THE SELLER,  
7 BEFORE THE GIFT CARD IS SOLD, SHALL STATE THE INFORMATION TO THE  
8 PURCHASER.

9     (C)     A VIOLATION OF ANY PROVISION OF THIS SECTION:

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

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

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

19     SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 July 1, 2005.