
By: **Senators Astle and Munson**

Introduced and read first time: January 28, 2005

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Gift Cards and Gift Certificates - Expiration and Service**
3 **Fees - Disclosure Requirements - Prohibition**

4 FOR the purpose of authorizing a gift card or gift certificate to be subject to
5 expiration or a service fee if certain disclosures are printed on the gift card or
6 gift certificate in a certain manner; requiring the seller of a gift card or gift
7 certificate to give the purchaser a written statement of certain disclosures under
8 certain circumstances; authorizing the seller of a gift card or gift certificate to
9 give the purchaser a written statement of certain disclosures or to post a certain
10 sign containing certain disclosures instead of printing the disclosures on the gift
11 card or gift certificate; establishing certain disclosure requirements for gift
12 cards and gift certificates sold by electronic means and by telephonic means;
13 prohibiting a gift card or gift certificate issued as a store credit from being
14 subject to expiration or a service fee; providing that a violation of this Act is an
15 unfair or deceptive trade practice under the Maryland Consumer Protection Act
16 and is subject to certain enforcement and penalty provisions; providing for the
17 construction and application of this Act; and generally relating to the expiration
18 of and service fees on gift cards and gift certificates.

19 BY adding to
20 Article - Commercial Law
21 Section 14-1319
22 Annotated Code of Maryland
23 (2000 Replacement Volume and 2004 Supplement)

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

26 **Article - Commercial Law**

27 14-1319.

28 (A) THIS SECTION DOES NOT APPLY TO:

29 (1) A PREPAID TELEPHONE CALLING CARD;

- 1 (2) A PREPAID TECHNICAL SUPPORT CARD;
- 2 (3) A PREPAID ONLINE CONTENT OR SERVICE CARD;
- 3 (4) A COUPON FOR DISCOUNTED GOODS OR SERVICES; OR
- 4 (5) A GIFT CARD OR GIFT CERTIFICATE THAT IS DISTRIBUTED BY THE
5 ISSUER TO AN INDIVIDUAL UNDER AN AWARDS, LOYALTY, OR PROMOTIONAL
6 PROGRAM UNDER WHICH THE RECIPIENT DOES NOT GIVE MONEY OR VALUE FOR
7 THE GIFT CARD OR GIFT CERTIFICATE.

8 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A GIFT
9 CARD OR GIFT CERTIFICATE MAY BE SUBJECT TO EXPIRATION OR A SERVICE FEE IF
10 THE FOLLOWING DISCLOSURES ARE PRINTED IN AT LEAST 10 POINT TYPE IN A
11 VISIBLE PLACE ON THE GIFT CARD OR GIFT CERTIFICATE:

12 (I) WITH RESPECT TO EXPIRATION, THE DATE ON WHICH THE GIFT
13 CARD OR GIFT CERTIFICATE EXPIRES; AND

14 (II) WITH RESPECT TO A SERVICE FEE:

- 15 1. THE AMOUNT OF THE FEE;
- 16 2. THE CIRCUMSTANCES UNDER WHICH THE FEE WILL BE
17 IMPOSED;
- 18 3. THE FREQUENCY WITH WHICH THE FEE WILL BE
19 IMPOSED; AND
- 20 4. WHETHER THE FEE IS TRIGGERED BY INACTIVITY.

21 (2) IF THE DISCLOSURES REQUIRED UNDER PARAGRAPH (1) OF THIS
22 SUBSECTION ARE HIDDEN BY THE PACKAGING OF THE GIFT CARD OR GIFT
23 CERTIFICATE, THE SELLER SHALL GIVE THE PURCHASER A WRITTEN STATEMENT OF
24 THE DISCLOSURES BEFORE THE GIFT CARD OR GIFT CERTIFICATE IS SOLD.

25 (C) (1) INSTEAD OF PRINTING THE DISCLOSURES REQUIRED UNDER
26 SUBSECTION (B)(1) OF THIS SECTION ON A GIFT CARD OR GIFT CERTIFICATE, THE
27 SELLER OF THE GIFT CARD OR GIFT CERTIFICATE MAY:

28 (I) GIVE THE PURCHASER A WRITTEN STATEMENT OF THE
29 DISCLOSURES AT THE TIME THE GIFT CARD OR GIFT CERTIFICATE IS SOLD; OR

30 (II) POST A SIGN CONTAINING THE DISCLOSURES, PRINTED IN
31 TYPE LARGE ENOUGH TO BE READABLE, IN A CONSPICUOUS PLACE IN THE
32 IMMEDIATE VICINITY OF THE REGISTER WHERE THE GIFT CARD OR GIFT
33 CERTIFICATE IS SOLD.

34 (2) THE WRITTEN STATEMENT UNDER PARAGRAPH (1)(I) OF THIS
35 SUBSECTION MAY BE IN THE FORM OF A RECEIPT.

1 (D) IN ADDITION TO PRINTING THE INFORMATION REQUIRED UNDER
2 SUBSECTION (B)(1) OF THIS SECTION ON A GIFT CARD OR GIFT CERTIFICATE:

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

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

10 (E) A GIFT CARD OR GIFT CERTIFICATE ISSUED AS A STORE CREDIT MAY NOT
11 BE SUBJECT TO EXPIRATION OR A SERVICE FEE.

12 (F) A VIOLATION OF ANY PROVISION OF THIS SECTION IS:

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

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

18 SECTION 2. AND BE IT FURTHER ENACTED, That a presently existing
19 obligation or contract right may not be impaired in any way by this Act.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
21 construed to apply only prospectively and may not be applied or interpreted to have
22 any effect on or application to any gift card or gift certificate issued before the
23 effective date of this Act.

24 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2005.