

Department of Legislative Services

Maryland General Assembly

2005 Session

FISCAL AND POLICY NOTE

House Bill 1053

(Delegate Boteler, *et al.*)

Economic Matters

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

This bill authorizes a gift card or gift certificate to be subject to expiration or a service fee if it complies with specified disclosure requirements.

Fiscal Summary

State Effect: Assuming that the Consumer Protection Division receives fewer than 50 complaints per year stemming from this bill, any additional workload could be handled with existing resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: For an expiration date, the date must be printed on the card or certificate. For a service fee, the disclosure on the card or certificate must list (1) the amount of the fee; (2) the circumstances under which it will be imposed; (3) the frequency with which it will be imposed; and (4) whether it is triggered by inactivity.

Instead of printing the disclosures on the card or certificate, the bill establishes alternative means of providing the required disclosures. The seller may either: (1) give the purchaser a written statement containing the disclosures, including one in the form of a

receipt; or (2) post a sign containing the disclosures in a conspicuous place in the area where the card or certificate is sold.

If the gift card or gift certificate is sold by electronic means, the seller must also include a conspicuous, written statement of the required information in the message offering the card or certificate. If it is sold over the telephone, the seller must state the information to the purchaser before the card or certificate is sold.

A gift card or gift certificate issued as store credit may not be subject to expiration or a service fee.

Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act.

The bill does not apply to (1) a prepaid telephone calling card; (2) a prepaid technical support card; (3) a prepaid card for Internet services; (4) a coupon for discounted goods or services; or (5) a gift certificate that is distributed under an awards, loyalty, or promotional program under specified circumstances. The bill also excludes gift certificates issued before October 1, 2005.

Current Law: No provision specifically regulates the expiration of gift cards or gift certificates.

Background: Increasingly, retailers have begun to restrict the time within which a person may redeem a gift certificate or gift card. Some retailers have begun to charge a fee for nonuse if a gift card has not been used within a stated period of time. Such time periods typically range between 12 and 24 months.

The Consumer Protection Division within the Office of the Attorney General is responsible for pursuing unfair or deceptive trade practice claims under the Maryland Consumer Protection Act. The division may attempt conciliation, issue cease and desist orders, or seek action in court, including an injunction, to enforce the Maryland Consumer Protection Act.

Additional Information

Prior Introductions: Similar bills were introduced in the 2004 and 2003 sessions. In 2004, SB 173 was amended and passed in the Senate. It was referred to the Economic Matters Committee in the House, where it received an unfavorable report. HB 43 of 2004 was heard in the Economic Matters Committee, but no further action was taken. In

2003, SB 375 received an unfavorable report from the Finance Committee, and HB 711 received an unfavorable report from the Economic Matters Committee.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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ncs/jr

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