

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 8

(Senator Klausmeier, *et al.*)

Finance

Economic Matters

Commercial Law - Gift Certificates and Gift Cards - Expiration and Fees -
Restrictions and Prohibitions

This bill prohibits a person from selling a gift certificate or a gift card that is subject to expiration or a postsale fee under specified circumstances. Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act.

The bill does not apply to gift certificates or gift cards sold before July 1, 2006.

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: A person may not sell a gift certificate that is subject to expiration or a fee or charge of any kind within three years after the issue date. Any term or condition of expiration or a fee or charge that takes effect three years or more after issuance must be disclosed clearly on the card, on a sticker affixed to the card, or on an envelope containing the card. A gift certificate sold in violation of the bill is considered valid, but it may not be subject to expiration or any fee or charge.

Under the bill, a gift certificate is a device constructed of paper, plastic, or other material that is (1) sold by a person for cash value that can be used to purchase goods or services; or (2) issued as store credit for returned goods. Excluded from the definition of a gift certificate are: (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; (5) a gift certificate that is distributed under an awards, loyalty, or promotional program under specified circumstances; or (6) a gift card processed through a national credit or debit card service under specified circumstances.

A gift card that is processed through a national credit or debit card service may be subject to expiration or a postsale fee if the disclosures required by the bill are printed on the front or back of the card. The disclosure must state the expiration date, if applicable. For a postsale fee, the disclosure must state: (1) the fee amount; (2) the circumstances under which the fee will be charged; (3) the frequency with which it will be imposed; and (4) whether the fee is triggered by inactivity. If the disclosures are hidden by packaging, the seller must first give the purchaser a written statement of the disclosures. The information must also be provided if the gift card is sold over the telephone or by electronic means.

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

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.

Banks and similar financial institutions now issue gift cards that are processed through the national credit and debit card system. These gift cards typically have a service fee for issuance at the time of sale, and may have any of several types of service fee or charge for inactivity or dormancy, for checking on the remaining balance, for replacement, and for monthly account maintenance.

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 Senate 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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