



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4353

Introduced 02/02/04, by Terry R. Parke

SYNOPSIS AS INTRODUCED:

New Act

Creates the Gift Certificate Act. Provides that it is unlawful for any person or entity to sell a gift certificate to a purchaser that contains an expiration date or a service fee including, but not limited to, a service fee for dormancy. Provides that any gift certificate sold after January 1, 2005, is redeemable in cash for its cash value or subject to replacement with a new gift certificate at no cost to the purchaser or holder. Provides that a gift certificate sold without an expiration date is valid until redeemed or replaced. Makes exceptions to the prohibition of the service fee for dormancy. Exempts prepaid calling cards that are issued solely to provide an access number and authorization code for the prepaid calling service from the requirements of the Act.

LRB093 19405 LCB 45143 b

A BILL FOR

1 AN ACT concerning gift certificates.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Gift
5 Certificate Act.

6 Section 5. Definition. As used in this Act, "gift
7 certificate" includes gift cards, but does not include any gift
8 card usable with multiple sellers of goods or services provided
9 the expiration date, if any, is printed on the card. This
10 exemption does not apply to a gift card usable only with
11 affiliated sellers of goods or services.

12 Section 10. Gift certificates; expiration date.

13 (a) It is unlawful for any person or entity to sell a gift
14 certificate to a purchaser that contains:

15 (1) an expiration date; or

16 (2) a service fee including, but not limited to, a
17 service fee for dormancy, except as provided in subsection
18 (e) of this Section.

19 (b) Any gift certificate sold after January 1, 2005, is
20 redeemable in cash for its cash value or subject to replacement
21 with a new gift certificate at no cost to the purchaser or
22 holder.

23 (c) A gift certificate sold without an expiration date is
24 valid until redeemed or replaced.

25 (d) This Section does not apply to any of the following
26 gift certificates issued on or after January 1, 2005, provided
27 the expiration date appears in capital letters in at least
28 10-point font on the front of the gift certificate:

29 (1) Gift certificates that are distributed by the
30 issuer to a consumer pursuant to an awards, loyalty, or
31 promotional program without any money or other thing of

1 value being given in exchange for the gift certificate by
2 the consumer.

3 (2) Gift certificates that are sold below face value at
4 a volume discount to employers or to nonprofit and
5 charitable organizations for fundraising purposes if the
6 expiration date on those gift certificates is not more than
7 30 days after the date of sale.

8 (3) Gift certificates that are issued for a food
9 product.

10 (e) The prohibition of a service fee for dormancy in item
11 (2) of subsection (a) of this Section does not apply to a
12 dormancy fee on a gift card that meets all of the following
13 criteria:

14 (1) The remaining value of the gift card is \$5 or less
15 each time the fee is assessed.

16 (2) The fee does not exceed \$1 per month.

17 (3) There has been no activity on the gift card for 24
18 consecutive months, including, but not limited to,
19 purchases, the adding of value, or balance inquiries.

20 (4) The holder may reload or add value to the gift
21 card.

22 (5) A statement is printed on the gift card in at least
23 10-point font stating the amount of the fee, how often the
24 fee will occur, that the fee is triggered by inactivity of
25 the gift card, and at what point the fee will be charged.
26 The statement may appear on the front or back of the gift
27 card, but shall appear in a location where it is visible to
28 any purchaser prior to the purchase thereof.

29 (f) Nothing in item (1) of subsection (a) prevents an
30 issuer of gift certificates from including on any gift
31 certificate a provision that entitles the purchaser to a full
32 refund of the amount that he or she paid for that gift
33 certificate upon the occurrence of the following
34 circumstances:

35 (1) The gift certificate is purchased as a gift for
36 another person.

1 (2) The time in which the gift certificate may be
2 redeemed is disclosed on the gift certificate.

3 (3) The holder of the gift certificate does not redeem
4 the gift certificate within the time described in paragraph
5 (2) of this subsection (f).

6 Section 15. Pre-paid calling cards. Nothing in this Act
7 prohibits those fees or practices with respect to a prepaid
8 calling card that is issued solely to provide an access number
9 and authorization code for prepaid calling services.

10 Section 20. Existing gift cards. The provisions of this Act
11 shall not create an inference with respect to the validity or
12 invalidity of any service fee imposed prior to the effective
13 date of this Act.

14 Section 25. Severability. If any provision of this Act or
15 its application to any person or circumstance is held invalid,
16 the invalidity of that provision or circumstance does not
17 affect other provisions or applications that can be given
18 effect without the invalid provision or application.