



Sub. S.B. 33

126th General Assembly
(As Passed by the General Assembly)

Sens. Spada, Jacobson, Amstutz, Schuler, Mumper, Armbruster, Dann, Zurz, Kearney

Reps. Webster, Hagan, Allen, Healy, Patton, T., Daniels, Stewart, D., Coley, Smith, G., Book, Brown, Cassell, Chandler, Combs, DeBose, DeGeeter, Distel, Domenick, Driehaus, Evans, C., Fende, Fessler, Flowers, Garrison, Gilb, Harwood, Hughes, Key, Koziura, Mason, McGregor, J., Miller, Mitchell, Oelslager, Otterman, Patton, S., Raussen, Reidelbach, Sayre, Seaver, Setzer, Skindell, Ujvagi, Williams, Yuko

Effective date: *

ACT SUMMARY

- Prohibits any person or entity from selling to a purchaser a gift card containing an expiration date that is less than two years after the date it was issued.
- Specifies that a gift card sold without an expiration date is valid until redeemed or replaced with a new gift card.
- Prohibits service charges or fees relative to a gift card within two years after that gift card is issued and establishes a penalty for violating this prohibition.
- Exempts from the act's prohibitions gift cards that meet specified criteria.

** The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

CONTENT AND OPERATION

Continuing validity of gift cards

The act prohibits any person or entity from selling to a purchaser a gift card containing an expiration date that is less than two years after the date the gift card is issued. A gift card sold without an expiration date is valid until redeemed or replaced with a new gift card. (Sec. 1349.61(A)(1) and (B).)

Service charges

The act prohibits a person and an entity within two years after a gift card is issued from charging service charges or fees relative to that gift card, including dormancy fees, latency fees, or administrative fees, in connection with a gift card that have the effect of reducing the total amount for which the holder of the gift card may redeem the gift card. Whoever violates this provision is liable to the holder of the gift card for any amount that the redemption value of the gift card is reduced, any court costs incurred, and reasonable attorney's fees. (Sec. 1349.61(A)(2) and (D).)

Definition of "gift card"

The act defines "gift card" as a certificate, electronic card, or other medium issued by a merchant that evidences the giving of consideration in exchange for the right to redeem the certificate, electronic card, or other medium for goods, food, services, credit, or money of at least an equal value, including any electronic card issued by a merchant with a monetary value where the issuer has received payment for the full monetary value for the future purchase or delivery of goods or services and any certificate issued by a merchant where the issuer has received payment for the full monetary face value of the certificate for the future purchase or delivery of goods and services. A "gift card" does not include a prepaid calling card used to make telephone calls. (Sec. 1349.61(E)(1).)

Exempted gift cards

The two prohibitions described above do not, however, apply to any of the following types of gift cards:

(1) A gift card that is distributed by the issuer to a consumer pursuant to an awards, loyalty, or promotional program without any money or anything of value being given in exchange for the gift card by the consumer;

(2) A gift card that is sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes, if the expiration date on that gift card is not more than 30 days after the date of sale;

(3) A gift card that is sold by a nonprofit or charitable organization for fundraising purposes;

(4) A gift card that an employer gives to an employee if use of the gift card is limited to the employer's business establishment, which may include a group of merchants that are affiliated with that business establishment;

(5) A gift certificate sold by the Chief of the Division of Wildlife in the Department of Natural Resources that may be used to obtain hunting and fishing licenses, fur taker, special deer, and special wild turkey permits, and wetlands habitat stamps;

(6) A gift card that is usable with multiple, unaffiliated sellers of goods or services;

(7) A gift card that an employer issues to an employee in recognition of services performed by the employee. (Sec. 1349.61(C).)

For purposes of these exemptions, "employer" means every person, firm, corporation, agent, manager, representative, or other person having control or custody of any employment, place of employment, or employee. "Employee" means every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go, or work, or be at any time in any place of employment. (Sec. 1349.61(E)(2).)

HISTORY

ACTION	DATE
Introduced	01-26-05
Reported, S. Insurance, Commerce & Labor	06-07-05
Passed Senate (28-4)	06-15-05
Reported, H. Financial Institutions, Real Estate and Securities	01-31-06
Passed House (96-0)	02-07-06
Senate concurred in House amendments (29-3)	02-08-06

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