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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1209 Session of  
2010

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INTRODUCED BY WILLIAMS, FERLO, MUSTO, TARTAGLIONE, ERICKSON,  
WASHINGTON, O'PAKE, FONTANA, STOUT, LOGAN, WARD, BOSCOLA,  
EARLL AND D. WHITE, FEBRUARY 1, 2010

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
FEBRUARY 1, 2010

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AN ACT

1 Amending the act of December 17, 1968 (P.L.1224, No.387),  
2 entitled, as reenacted, "An act prohibiting unfair methods of  
3 competition and unfair or deceptive acts or practices in the  
4 conduct of any trade or commerce, giving the Attorney General  
5 and District Attorneys certain powers and duties and  
6 providing penalties," further defining "unfair methods of  
7 competition" and "unfair or deceptive acts or practices"; and  
8 further providing for unlawful acts or practices and  
9 exclusions.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Section 2(4) of the act of December 17, 1968  
13 (P.L.1224, No.387), known as the Unfair Trade Practices and  
14 Consumer Protection Law, reenacted and amended November 24, 1976  
15 (P.L.1166, No.260), is amended by adding a subclause to read:

16 Section 2. Definitions.--As used in this act.

17 \* \* \*

18 (4) "Unfair methods of competition" and "unfair or deceptive  
19 acts or practices" mean any one or more of the following:

20 \* \* \*

1 (xxii) Selling or offering to sell a gift certificate to a  
2 purchaser that includes an expiration date or a right of the  
3 seller to impose and collect a charge or fee after the sale,  
4 including, but not limited to, a service charge, dormancy fee,  
5 account maintenance fee, cash-out fee, replacement card fee,  
6 activation fee or charge or reactivation fee or charge, that  
7 reduces the face or monetary value of the gift certificate  
8 established at the time of sale. A gift certificate that does  
9 not include an expiration date and that does not provide the  
10 seller with a right to impose and collect a post-sale charge or  
11 fee shall not be presumed abandoned and unclaimed property for  
12 purposes of Article XIII.1 of the act of April 9, 1929 (P.L.343,  
13 No.176), known as "The Fiscal Code." The term "gift certificate"  
14 shall mean a writing identified as a gift certificate or gift  
15 card purchased by a person not redeemable in cash and usable in  
16 its face amount in lieu of cash in exchange for goods or  
17 services supplied by the seller. The term includes, but is not  
18 limited to, an electronic card with a banked dollar value,  
19 merchandise credit, certificate where the issuer has received  
20 payment for the full face value of the future purchase or  
21 delivery of goods or services and other mediums which evidence  
22 the giving of consideration in exchange for the right to redeem  
23 the certificate, electronic card or other medium for goods,  
24 services, credit or money of at least an equal value. The term  
25 does not include a gift card usable with multiple sellers of  
26 goods or services provided the expiration date, if any, is  
27 printed on the card and the card is not limited to use only with  
28 affiliated sellers of goods or services.

29 Section 2. Section 3 of the act, amended November 29, 2006  
30 (P.L.1624, No.185), is amended to read:

1       Section 3.   Unlawful Acts or Practices; Exclusions.--Unfair  
2 methods of competition and unfair or deceptive acts or practices  
3 in the conduct of any trade or commerce as defined by subclauses  
4 (i) through [(xxi)] (xxii) of clause (4) of section 2 of this  
5 act and regulations promulgated under section 3.1 of this act  
6 are hereby declared unlawful. The provisions of this act shall  
7 not apply to any owner, agent or employe of any radio or  
8 television station, or to any owner, publisher, printer, agent  
9 or employe of an Internet service provider or a newspaper or  
10 other publication, periodical or circular, who, in good faith  
11 and without knowledge of the falsity or deceptive character  
12 thereof, publishes, causes to be published or takes part in the  
13 publication of such advertisement.

14       Section 3.   This act shall apply to gift certificates issued  
15 after the effective date of this section.

16       Section 4.   This act shall take effect in 60 days.