

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2737 Session of
2008

INTRODUCED BY GODSHALL, AUGUST 21, 2008

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, AUGUST 21, 2008

AN ACT

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

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

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

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

15 * * *

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

18 * * *

19 (xxii) Selling or offering to sell, by a person engaged in

1 the retail sale of goods or services, a gift certificate to a
2 consumer that expires within a period of less than five years.

3 (xxiii) Charging, by a person engaged in the retail sale of
4 goods or services, an inactivity fee or other service fee for
5 the possession or redemption of a gift certificate. For purposes
6 of this clause, "service fee" does not include any fee charged
7 to or paid by a consumer in connection with the sale of a gift
8 certificate, unless the fee is deducted or debited from the face
9 value of the gift certificate.

10 (xxiv) In the retail sale of goods or services in which the
11 purchaser presents for redemption a gift certificate, engaging
12 in any of the following:

13 (A) Refusing to accept the gift certificate, if the goods or
14 services are used or purchased primarily for personal, family or
15 household purposes, including, but not limited to, goods or
16 services advertised on sale or pursuant to a liquidation or
17 closeout. This subclause does not apply if the gift certificate
18 has an expiration date that complies with law and is not
19 presented for redemption after the expiration date.

20 (B) Restricting the holder of the gift certificate from
21 using the gift certificate in a manner consistent with the
22 stated terms and conditions on the gift certificate.

23 (C) Altering any term or condition of the gift certificate
24 after it is issued.

25 (D) Refusing to redeem the gift certificate and apply it to
26 the purchase price of the goods or services if the value of the
27 gift certificate or remaining balance of the gift certificate is
28 less than the purchase price of the goods or services.

29 (xxv) Failing to disclose the terms and conditions of a gift
30 certificate to a prospective purchaser of the gift certificate

1 by doing any of the following:

2 (A) Failing to include in any advertisement or promotion for
3 the gift certificate, whether by mail or electronic, computer or
4 telephonic means, a notice stating that terms and conditions are
5 applied to the gift certificate.

6 (B) Failing to conspicuously print the terms and conditions
7 on the gift certificate, the envelope or packaging containing
8 the gift certificate or a separate printed document delivered to
9 the purchaser of the gift certificate.

10 (5) (i) "Gift certificate" means a written promise or a
11 gift card or other electronic payment device that meets all of
12 the following:

13 (A) Is usable at a single retailer, is usable at an
14 affiliated group of retailers that share the same name, mark or
15 logo or is usable at multiple, unaffiliated retailers or service
16 providers.

17 (B) Is issued in a specified amount.

18 (C) May or may not be increased in value or reloaded.

19 (D) Is purchased or loaded on a prepaid basis for the future
20 purchase or delivery of goods or services.

21 (E) Is designed to be redeemed upon presentation.

22 (ii) The term does not include any of the following:

23 (A) A general use, prepaid card or other electronic payment
24 device that is issued or sponsored by a financial institution in
25 a predetermined amount and is usable at multiple, unaffiliated
26 retailers or at automated teller machines. "Financial
27 institution" means a bank, bank and trust, national bank,
28 savings bank, savings and loan association, credit union or
29 money transmitter organized under the laws of this Commonwealth,
30 another state, the District of Columbia, the United States or

any territory or protectorate of the United States and their
respective subsidiaries, affiliates or holding companies.

(B) An electronic payment device linked to a deposit
account.

(C) A prepaid telephone calling card regulated under Federal
or State law or a card used in connection with prepaid wireless
telephone service.

(D) An electronic payment device used to access an account
from which an individual may pay medical expenses, health care
expenses, dependent care expenses or similar expenses on a
pretax basis under the Internal Revenue Code of 1986 (Public Law
99-514, 26 U.S.C. § 1 et seq.).

(E) A prepaid discount card or program used to purchase
identified goods or services at a price or percentage below the
normal and customary price, if any expiration date of the
prepaid discount card or program is clearly and conspicuously
disclosed.

(F) A payroll card or other electronic payment device linked
to a deposit account and given in exchange for goods or services
rendered.

(G) A gift certificate sold below face value or at a volume
discount to an employee, to a nonprofit or charitable
organization or to an educational institution for fundraising
purposes.

(H) A gift certificate distributed to a consumer or employee
pursuant to an awards, rewards, loyalty or promotional program,
if the consumer or employee is not required to give consideration
for the gift certificate.

(I) An electronic credit voucher issued by a person that
holds a certificate issued under 49 U.S.C. Ch. 411 (relating to

1 air carrier certificates) or 413 (relating to foreign air
2 transportation).

3 Section 2. This act shall take effect in 60 days.