

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1098 Session of
2004

INTRODUCED BY FUMO, TARTAGLIONE, WAGNER, KITCHEN, LOGAN, COSTA,
KUKOVICH, STOUT, STACK, ORIE, LAVALLE, MELLOW, MUSTO,
GREENLEAF, LEMMOND, BOSCOLA, PIPPY, HUGHES, KASUNIC, SCHWARTZ
AND M. WHITE, APRIL 26, 2004

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
APRIL 26, 2004

AN ACT

1 Prohibiting the sale or issuance of certain gift certificates
2 with expiration dates and the imposition of transaction,
3 service or convenience fees; providing the Attorney General
4 certain powers and duties; and making a repeal.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Fair Gift
9 Certificate Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Certificate issuer" or "issuer." Any person or business
15 engaged in the sale of consumer goods or services that sells or
16 issues gift certificates.

17 "Gift certificate" or "certificate." Any printed paper,

document, card or token sold by a certificate issuer who has received payment for the full face value of the certificate for future purchase or delivery of consumer goods and services. This term does not include:

(1) Gift certificates that are distributed by the issuer to a consumer pursuant to an awards, loyalty or promotion program without any exchange in money or other value.

(2) Gift certificates that are sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes.

(3) Gift certificates issued for Internet redemption exclusively.

"Internet." The myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the transmission control protocol/Internet protocol or any predecessor or successor protocols to such protocol to communicate information of all kinds by wire or radio.

"Transaction fee, service fee or convenience fee." A fixed charge, fee or other monetary consideration associated with the issuance or redemption of gift certificates.

Section 3. Prohibition of expiration dates on gift certificates.

(a) General rule.--No person or business engaged in the sale of consumer goods or services in this Commonwealth shall sell or issue gift certificates with fixed expiration dates of less than two years from the date of sale or issuance. A gift certificate which remains unredeemed for two years or more from the date of sale or issuance is redeemable for its cash value or subject to replacement with a new gift certificate at no cost to the

1 purchaser or recipient of the gift certificate. All two-year
2 expiration dates on gift certificates must appear in capital
3 letters in at least 10-point boldface type.

4 (b) Exceptions.--Gift certificates shall not be honored by
5 any person or business entity that engages in the sale of
6 consumer goods and services after two years from the date of
7 sale or issuance when the person or business entity declares
8 bankruptcy.

9 (c) Unredeemed gift certificates.--The consideration paid
10 for a gift certificate that has remained unredeemed for a period
11 of five years or more from the date of issuance shall be
12 presumed abandoned and unclaimed property under the act of April
13 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

14 (d) Limited redemption.--Gift certificates issued for a
15 consumer good or service with no specified face value may only
16 be redeemed for the price of the consumer good or service at the
17 time of its issuance.

18 (e) Transaction fee, service fee or convenience fee.--No
19 person or business engaged in the sale of consumer goods or
20 services in this Commonwealth shall levy or assess a transaction
21 fee, service fee or convenience fee as a condition of issuing or
22 redeeming a gift certificate unless the gift certificate is
23 redeemed for its cash value in which case a 10% service fee may
24 be assessed by the retailer.

25 Section 4. Recordkeeping.

26 (a) Duty to maintain records.--Any person or business
27 engaged in the sale of consumer goods or services that sells or
28 issues gift certificates in this Commonwealth shall record the
29 sales and keep accurate and complete records of each gift
30 certificate sold or issued for a period of five years or until

1 the consideration paid for the gift certificate has been
2 transferred to the Treasury Department's Bureau of Unclaimed
3 Property in accordance with the act of April 9, 1929 (P.L.343,
4 No.176), known as The Fiscal Code.

5 (b) Required contents of records.--

6 (1) The record shall include the date of sale, the full
7 value of the certificate, the identification number assigned
8 by the issuer to the gift certificate, the state in which the
9 sale or issuance of the certificate took place and the
10 address of the intended recipient of the gift certificate.

11 (2) The certificate issuer shall provide a purchaser of
12 a gift certificate with a written and numbered receipt
13 evidencing the sale or issuance of the gift certificate.

14 (3) In the absence of a record of the address of the
15 intended recipient of a gift certificate, the address of the
16 owner shall be presumed to be the address of the Treasury
17 Department's Bureau of Unclaimed Property.

18 (c) Construction.--Nothing in this section shall be
19 construed to prevent the issuer of a gift certificate from
20 honoring a gift certificate, the unredeemed value of which has
21 been reported to the Treasury Department pursuant to The Fiscal
22 Code and thereafter seeking reimbursement from the Treasury
23 Department.

24 Section 5. Enforcement.

25 (a) Penalty.--A violation of this act shall constitute a
26 violation of the act of December 17, 1968 (P.L.1224, No.387),
27 known as the Unfair Trade Practices and Consumer Protection Law.

28 (b) Procedure.--All actions of the Office of Attorney
29 General under this act shall be taken subject to the right of
30 notice, hearing and adjudication and the right of appeal in

1 accordance with 2 Pa.C.S. (relating to administrative law and
2 procedure).

3 Section 6. Repeal.

4 Section 1301.6 of the act of April 9, 1929 (P.L.343, No.176),
5 known as The Fiscal Code, is repealed insofar as it is
6 inconsistent with this act.

7 Section 7. Effective date.

8 This act shall take effect in 180 days.