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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 928      Session of  
2007

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INTRODUCED BY FUMO, TARTAGLIONE, MELLOW, ORIE, FONTANA, BOSCOLA,  
RAFFERTY, MUSTO, McILHINNEY, WOZNIAK, GREENLEAF, KASUNIC,  
BROWNE, FERLO, LOGAN, EARLL, STOUT AND STACK, JUNE 11, 2007

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
JUNE 11, 2007

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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,  
18 document, card or token sold by a certificate issuer who has

1 received payment for the full face value of the certificate for  
2 future purchase or delivery of consumer goods and services. This  
3 term does not include:

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

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

10 (3) Gift certificates issued for Internet redemption  
11 exclusively.

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

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

21 Section 3. Prohibition of expiration dates on gift  
22 certificates.

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

1 expiration dates on gift certificates must appear in capital  
2 letters in at least 10-point boldface type.

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

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

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

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

#### 24 Section 4. Recordkeeping.

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

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

4 (b) Required contents of records.--

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

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

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

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

23 Section 5. Enforcement.

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

27 (b) Procedure.--All actions of the Office of Attorney  
28 General under this act shall be taken subject to the right of  
29 notice, hearing and adjudication and the right of appeal in  
30 accordance with 2 Pa.C.S. (relating to administrative law and

1 procedure).

2 Section 6. Repeal.

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

6 Section 7. Effective date.

7 This act shall take effect in 180 days.