

AN ACT to amend the general business law, in relation to restricting fees on gift cards and gift certificates

Became a law September 26, 2016, with the approval of the Governor.

Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 3 and 5 of section 396-i of the general business law, as amended by chapter 507 of the laws of 2004, are amended and a new subdivision 5-a is added to read as follows:

3. The terms and conditions of a gift certificate store credit shall be clearly and conspicuously stated thereon. Terms and conditions shall include the expiration date, whether any fees are assessed against the balance of the gift certificate, and whether a fee will be charged for the replacement of a gift certificate that is lost, stolen, or destroyed, **if any**. Additional terms and conditions including, but not ~~[be]~~ limited to, policies related to refunds, warranties, changes in terms and conditions, **the procedure for the replacement of a gift certificate, if any**, assignment and waiver shall be conspicuously printed: (a) on the gift certificate; or (b) on an envelope or packaging containing the gift certificate, provided that a toll free telephone number to access the additional terms and conditions is printed on the gift certificate; or (c) on an accompanying ~~[printed]~~ document, provided that a toll free telephone number to access the additional terms and conditions is printed on the gift certificate.

5. (a) No retroactive fees shall be assessed against a gift certificate.

(b) No monthly service fees may be assessed against the balance of a gift certificate prior to the ~~[thirteenth]~~ **twenty-fifth** month of dormancy.

(c) **A service fee may be assessed after the twenty-fourth month of dormancy provided that any such fee shall be waived and the gift certificate replenished to its value prior to such fees being assessed where the holder of such gift certificate presents the certificate within three years of issue.**

(d) For the purposes of this subdivision, "dormancy" shall mean non-use of a gift certificate. Use of a gift certificate shall include, but not be limited to, adding value, or purchases.

5-a. It shall be unlawful for any person to sell or issue a gift certificate where the underlying funds are subject to an expiration date which is earlier than five years after the date on which the gift certificate was issued, or the date on which funds were last loaded to a store gift card. The terms of expiration shall be clearly and conspicuously stated on the gift certificate.

§ 2. Subdivision 3-b of section 396-i of the general business law, as amended by chapter 507 of the laws of 2004, is amended to read as follows:

EXPLANATION--Matter in **italics** is new; matter in brackets [-] is old law to be omitted.

3-b. Subparagraph (i) of paragraph (a) of subdivision two-a **and subdivision five-a** of this section shall not apply to gift certificates:

(a) sold below face value or at a volume discount to employees, to nonprofit and charitable organizations, or educational institutions for fundraising purposes; or

(b) distributed to a consumer or employee pursuant to an awards, rewards, loyalty, or promotional program without any consideration being given in exchange for the gift certificate by the consumer or employee.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to gift certificates issued on or after such date.

The Legislature of the STATE OF NEW YORK **ss:**

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOHN J. FLANAGAN
Temporary President of the Senate

CARL E. HEASTIE
Speaker of the Assembly