

2020 -- H 7153

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LC003155
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO COMMERCIAL LAW - UNFAIR SALES PRACTICES - GIFT
CERTIFICATES

Introduced By: Representatives Corvese, Canario, Vella-Wilkinson, Azzinaro, and Ucci

Date Introduced: January 16, 2020

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 6-13-12 of the General Laws in Chapter 6-13 entitled "Unfair Sales
2 Practices" is hereby amended to read as follows:

3 **6-13-12. Sales of gift certificates.**

4 (a) "Gift certificate" means a record evidencing a promise, made for monetary
5 consideration, by the seller or issuer for the record that goods or services will be provided to the
6 owner of the record to the value shown in the record and includes, but is not limited to: (1) A
7 record that contains a microprocessor chip, magnetic strip, or other means of storage of
8 information that is pre-funded and for which the value is decremented upon each use; (2) A gift
9 card, an electronic gift card, stored-value card or certificate; (3) A store card; (4) Prepaid long-
10 distance telephone service that is activated by a prepaid card that requires dialing an access
11 number or an access code for each call in addition to dialing the phone number to which the user
12 of the prepaid card seeks to connect; or (5) A similar record or card. Any person, firm, or
13 corporation that sells gift certificates for any product or merchandise sold by the person, firm, or
14 corporation, shall be required to record the sales and keep an accurate and complete record of
15 each gift certificate sold. The record shall include the date of sale; the full value of the certificate;
16 the identification number assigned by the retailer to the certificate; and the state in which the sale
17 of the certificate took place. The retailer shall further be required to give to the purchaser of gift
18 certificates exceeding fifty dollars (\$50.00) a written and numbered receipt evidencing the sale of

1 the certificate. It shall be unlawful for any person, firm, or corporation of any kind to charge any
2 surcharge or additional monthly or annual service or maintenance fees on gift certificates or to
3 limit the time for the redemption of a gift certificate or to place an expiration date upon the gift
4 certificate. No gift certificate or any agreement with respect to such gift certificate may contain
5 language suggesting that an expiration date may apply to the gift certificate. Any person, firm, or
6 corporation that shall violate the provisions of this section shall be punished by a fine of not more
7 than two hundred dollars (\$200). Due to the unlimited redemption period, the division of taxation
8 shall not escheat the funds paid for those unredeemed gift certificates. Any unused portion of a
9 redeemed gift certificate shall be afforded to the consumer by reissuing the gift certificate for the
10 unused amount or providing cash where the balance due the consumer is less than one dollar
11 (\$1.00). This section shall not apply to the following:

12 ~~(b)~~[\(1\)](#) Gift certificates that are distributed to a consumer pursuant to an awards, loyalty,
13 or promotional program without any money or other thing of value being given in exchange for
14 the gift certificate by the consumer. Any restrictions or limitations that such gift certificates may
15 be subject to must be disclosed to the consumer, in writing, at the time the gift certificates are
16 distributed to the consumer.

17 ~~(c)~~[\(2\)](#) Prepaid wireless telephone service or prepaid wireless telephone card. "Prepaid
18 wireless telephone service" means wireless telephone service that is activated in advance by
19 payment for a finite dollar amount of service or for a finite set of minutes that terminate either
20 upon use by a customer and delivery by the wireless provider of an agreed-upon amount of
21 service corresponding to the total dollar amount paid in advance or within a certain period of time
22 following the initial purchase or activation, unless additional payments are made.

23 ~~(d)~~[\(3\)](#) Gift cards or prepaid or store value cards that are issued by state-chartered
24 financial institutions and credit unions or that are issued by third-party issuers usable at multiple,
25 unaffiliated merchants or service providers; provided that said financial institutions, credit unions,
26 or third-party issuers comply with the guidelines on disclosure and marketing as published by the
27 office of the comptroller of the currency.

28 [\(b\) A gift certificate, as defined in subsection \(a\) of this section, constitutes value held in](#)
29 [trust by the issuer of the gift certificate on behalf of the beneficiary of the gift certificate. The](#)
30 [value represented by a gift certificate belongs to the beneficiary, or to the legal representative of](#)
31 [the beneficiary to the extent provided by law, and not to the issuer. As such, issuers are required](#)
32 [to deposit and hold funds in an escrow account until the gift certificate is redeemed, or for a](#)
33 [period of three \(3\) years, whichever occurs first.](#)

34 [\(c\) The terms of a gift certificate may not make its redemption or other use invalid in the](#)

1 [event of a bankruptcy.](#)

2 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would require issuers of gift certificates to deposit and hold funds used to
2 purchase the gift certificate in escrow for three (3) years, or until the gift certificate is redeemed,
3 and would restrict certain redemption terms in the event of bankruptcy.

4 This act would take effect upon passage.

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