

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 2635

By: Ingmire

COMMITTEE SUBSTITUTE

An Act relating to contracts; amending Sections 2, 3, and 5, Chapter 233, O.S.L. 2005 (15 O.S. Supp. 2005, Sections 796, 797 and 798.1), which relate to the Gift Certificate and Gift Card Disclosure Act; adding definition; modifying exemptions; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 2, Chapter 233, O.S.L. 2005 (15 O.S. Supp. 2005, Section 796), is amended to read as follows:

Section 796. As used in the Gift Certificate and Gift Card Disclosure Act:

1. "Gift card" shall mean a plastic card or other electronic payment device which is:
  - a. issued in a predenominated amount or in an amount requested by the consumer,
  - b. usable to purchase goods and/or services only at a single merchant or group of merchants that are affiliated through common corporate ownership or control, and
  - c. purchased by a consumer on a prepaid basis in exchange for payment;
2. "Gift certificate" shall mean a written promise which is:
  - a. issued in a specified amount, indicated on its face, and cannot be increased in value,

- b. usable to purchase goods and/or services only at a single merchant or a group of merchants that are affiliated through common corporate ownership or control, and
- c. purchased by a consumer on a prepaid basis in exchange for payment; ~~and~~

3. "Issuer" shall mean a person or entity engaged in the business of offering goods and/or services for sale at retail who sells gift certificates or gift cards to consumers; and

4. "Prepaid service arrangement" shall mean a method to purchase specific services in advance and which enables the use of the service through a unique access number or authorization code provided manually or electronically to the service provider.

SECTION 2. AMENDATORY Section 3, Chapter 233, O.S.L. 2005 (15 O.S. Supp. 2005, Section 797), is amended to read as follows:

Section 797. A. It is unlawful for any person or entity to sell a gift certificate or gift card whenever to a purchaser that contains any of the following:

1. An expiration date that expires less than sixty (60) months from the date of purchase; and

2. A service fee including, but not limited to, a service fee for dormancy, except as provided in subsection E of this section.

B. A gift certificate or gift card sold without an expiration date is valid until redeemed or replaced.

C. This section does not apply to any of the following gift certificates or gift cards issued on or after November 1, 2005, provided the expiration date appears in capital letters in at least ten-point font on the front of the gift certificate or gift card:

1. Gift certificates or gift cards that are distributed by the issuer to a consumer pursuant to an awards, loyalty, or promotional

program without any money ~~or other thing of value~~ being given in exchange for the gift certificate or gift card by the consumer;

2. Gift certificates or gift cards that are sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes if the expiration date on those gift certificates or gift cards is not more than thirty (30) days after the date of sale; and

3. Gift certificates or gift cards that are issued for a food product.

D. Paragraph 2 of subsection A of this section does not apply to a dormancy fee on a gift card or gift certificate that meets all of the following criteria:

1. The remaining value of the gift card or gift certificate is Five Dollars (\$5.00) or less each time the fee is assessed;

2. The fee does not exceed One Dollar (\$1.00) per month;

3. There has been no activity on the gift card or gift certificate for twenty-four (24) consecutive months including, but not limited to, purchases, the adding of value, or balance inquiries;

4. The holder may reload or add value to the gift card or gift certificate; and

5. A statement is printed on the gift card or gift certificate in at least ten-point font stating the amount of the fee, how often the fee will occur, that the fee is triggered by inactivity of the gift card or gift certificate, and at what point the fee will be charged. The statement may appear on the front or back of the gift card or gift certificate, but shall appear in a location where it is visible to any purchaser prior to the purchase thereof.

E. An issuer of gift certificates or gift cards may accept funds from one or more contributors toward the purchase of a gift certificate or gift card intended to be a gift for a recipient, provided that each contributor is provided with a full refund of the

amount that person paid toward the purchase of the gift certificate or gift card upon the occurrence of all of the following:

1. The funds are contributed for the purpose of being redeemed by the recipient by purchasing a gift certificate or gift card;

2. The time in which the recipient may redeem the funds by purchasing a gift certificate or gift card is clearly disclosed in writing to the contributors and the recipient; and

3. The recipient does not redeem the funds within the time described in paragraph 2 of this subsection.

SECTION 3. AMENDATORY Section 5, Chapter 233, O.S.L. 2005 (15 O.S. Supp. 2005, Section 798.1), is amended to read as follows:

Section 798.1 For the purposes of this act, the term "gift certificate" or "gift card" shall not include any of the following:

1. Prepaid telephone calling cards that are purchased for retail use; ~~or~~

2. Telephone calling cards that are provided on a promotional basis; or

3. Any prepaid service arrangement.

SECTION 4. This act shall become effective November 1, 2006.

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