

EHB 2635

THE STATE SENATE
Wednesday, April 5, 2006

ENGROSSED
House Bill No. 2635
As Amended

ENGROSSED HOUSE BILL NO. 2635 - By: INGMIRE and SHELTON of the House
and BASS of the Senate.

[**contracts - exemptions - 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;

1 2. "Gift certificate" shall mean a written promise which is:
2 a. issued in a specified amount, indicated on its face,
3 and cannot be increased in value,
4 b. usable to purchase goods and/or services only at a
5 single merchant or a group of merchants that are
6 affiliated through common corporate ownership or
7 control, and
8 c. purchased by a consumer on a prepaid basis in exchange
9 for payment; ~~and~~

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

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

17 SECTION 2. AMENDATORY Section 3, Chapter 233, O.S.L.
18 2005 (15 O.S. Supp. 2005, Section 797), is amended to read as
19 follows:

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

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

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

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

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

11 1. Gift certificates or gift cards that are distributed by the
12 issuer to a consumer pursuant to an awards, loyalty, or promotional
13 program without any money ~~or other thing of value~~ being given in
14 exchange for the gift certificate or gift card by the consumer;

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

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

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

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

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

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

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

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

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

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

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

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

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

10 SECTION 3. AMENDATORY Section 5, Chapter 233, O.S.L.
11 2005 (15 O.S. Supp. 2005, Section 798.1), is amended to read as
12 follows:

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

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

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

19 3. Any prepaid service arrangement.

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

21 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND LABOR, dated 4-3-06 -
22 DO PASS, As Amended.