

CHAPTER 180

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 10-155

BY SENATOR(S) Tochtrop, Bacon, Carroll M., Foster, Heath, Hodge, Sandoval, Williams, Boyd;
also REPRESENTATIVE(S) Benefield, Apuan, Court, Ferrandino, Kerr A., Labuda, Merrifield, Pace, Peniston, Pommer,
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AN ACT**CONCERNING LIMITATIONS ON THE ISSUANCE OF GIFT CARDS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 7 of article 1 of title 6, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

6-1-722. Gift certificates - validity - exemptions - definitions. (1)(a) AS USED IN THIS SECTION, "GIFT CARD" MEANS A PREFUNDED TANGIBLE OR ELECTRONIC RECORD OF A SPECIFIC MONETARY VALUE EVIDENCING AN ISSUER'S AGREEMENT TO PROVIDE GOODS, SERVICES, CREDIT, MONEY, OR ANYTHING OF VALUE. A "GIFT CARD" INCLUDES, BUT IS NOT LIMITED TO, A TANGIBLE CARD; ELECTRONIC CARD; STORED-VALUE CARD; OR CERTIFICATE OR SIMILAR INSTRUMENT, CARD, OR TANGIBLE RECORD, ALL OF WHICH CONTAIN A MICROPROCESSOR CHIP, MAGNETIC CHIP, OR OTHER MEANS FOR THE STORAGE OF INFORMATION AND FOR WHICH THE VALUE IS DECREMENTED UPON EACH USE. A "GIFT CARD" DOES NOT INCLUDE A PREFUNDED TANGIBLE OR ELECTRONIC RECORD ISSUED BY, OR ON BEHALF OF, ANY GOVERNMENT AGENCY; A GIFT CERTIFICATE THAT IS ISSUED ONLY ON PAPER; A PREPAID TELECOMMUNICATIONS OR TECHNOLOGY CARD; A CARD OR CERTIFICATE ISSUED TO A CONSUMER PURSUANT TO AN AWARDS, LOYALTY, OR PROMOTIONAL PROGRAM FOR WHICH NO MONEY OR OTHER ITEM OF MONETARY VALUE WAS EXCHANGED; OR A CARD THAT IS DONATED OR SOLD BELOW FACE VALUE AT A VOLUME DISCOUNT TO AN EMPLOYER OR CHARITABLE ORGANIZATION FOR FUNDRAISING PURPOSES.

(b) THIS SECTION SHALL NOT APPLY TO GIFT CARDS THAT ARE USABLE WITH MULTIPLE SELLERS OF GOODS OR SERVICES. THIS EXCEPTION SHALL NOT APPLY TO A GIFT CARD USABLE ONLY WITH AFFILIATED SELLERS OF GOODS OR SERVICES.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, THE ISSUER SHALL REDEEM THE REMAINING VALUE OF A GIFT CARD FOR CASH IF THE AMOUNT REMAINING IS FIVE DOLLARS OR LESS ON REQUEST OF THE HOLDER.

(3) IT IS UNLAWFUL FOR ANY PERSON OR ENTITY TO SELL TO A PURCHASER A GIFT CARD THAT CONTAINS A SERVICE FEE, A DORMANCY FEE, AN INACTIVITY FEE, A MAINTENANCE FEE, OR ANY OTHER TYPE OF FEE.

(4) A VIOLATION OF THIS SECTION SHALL BE DEEMED A DECEPTIVE TRADE PRACTICE AS PROVIDED IN SECTION 6-1-105 (1) (ccc).

SECTION 2. 6-1-105 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6-1-105. Deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person:

(ccc) VIOLATES THE PROVISIONS OF SECTION 6-1-722.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act shall apply to gift cards issued on or after the applicable effective date of this act.

Approved: April 29, 2010