

SENATE BILL No. 38

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-23; IC 32-34-1-17

Synopsis: Gift certificates. Provides that a gift certificate may not expire in less than 12 months or be reduced in value for delayed use or nonuse unless certain conditions are met.

Effective: July 1, 2005.

Antich-Carr

January 4, 2005, read first time and referred to Committee on Commerce and Transportation.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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SENATE BILL No. 38



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

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

1 SECTION 1. IC 24-5-23 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]:

4 **Chapter 23. Gift Certificates**

5 **Sec. 1. As used in this chapter, "activity" includes the following**
6 **uses of a gift certificate:**

- 7 (1) **Acquiring or purchasing goods or services with the gift**
- 8 **certificate.**
- 9 (2) **Checking the balance of the gift certificate.**
- 10 (3) **Adding value to the gift certificate.**
- 11 (4) **Redeeming the gift certificate for cash.**

12 **Sec. 2. As used in this chapter, "gift certificate" means a**
13 **representation or other evidence of an obligation of a person**
14 **arising from a transaction that requires the person to provide**
15 **goods or services. The term includes the following:**

- 16 (1) **A gift certificate.**
- 17 (2) **A stored value card.**



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(3) A gift card.

(4) An online gift account.

Sec. 3. As used in this chapter, "person" means an individual, a corporation, the state or its subdivisions or agencies, a business trust, an estate, a trust, a partnership, an association, a cooperative, or any other legal entity.

Sec. 4. (a) Except as provided in this section, this chapter applies to gift certificates that are issued after June 30, 2005.

(b) This chapter does not apply to the following gift certificates:

(1) A gift certificate issued by a financial institution (as defined in IC 22-2-4-1).

(2) A gift certificate issued without consideration by a person other than a financial institution (as defined in IC 22-2-4-1) under an awards program, a loyalty program, or a promotional program.

(3) A gift certificate issued for less than face value to:

(A) an employer;

(B) a charitable organization exempt from federal taxation under Section 501 of the Internal Revenue Code; or

(C) a nonprofit organization;

for fundraising purposes.

Sec. 5. Except as provided in sections 6 and 7 of this chapter, a gift certificate may not be subject to the following:

(1) An expiration date.

(2) A fee, including a service or maintenance fee.

(3) A dormancy or inactivity charge.

Sec. 6. A gift certificate may be subject to an expiration date if the following requirements are satisfied:

(1) The expiration date is printed in at least 10 point type on the gift certificate or on a sticker permanently affixed to the gift certificate.

(2) The expiration date is at least twelve (12) months after the issuance of the gift certificate.

Sec. 7. A gift certificate may be subject to a dormancy or inactivity charge if the following requirements are satisfied:

(1) The dormancy or inactivity charge accrues only after there has been no activity on the gift certificate for at least twenty-four (24) months.

(2) The balance on the gift certificate is less than five dollars (\$5).

(3) The dormancy or inactivity charge does not exceed one dollar (\$1) per month.

(4) The requirements set forth in subdivisions (1) through (3) are printed in at least 10 point type on the gift certificate or

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on a sticker permanently affixed to the gift certificate.

Sec. 8. A provision in an agreement creating a gift certificate that conflicts with this chapter is void.

SECTION 2. IC 32-34-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) This section does not apply to section 24 of this chapter.

(b) As used in this chapter, "property" means an interest in intangible personal property, except an unliquidated claim, and all income or increment derived from the interest, including an interest that is referred to as or evidenced by:

- (1) money, a check, a draft, a deposit, an interest, or a dividend;
- (2) a credit balance, a customer overpayment, ~~a gift certificate~~, a security deposit, a refund, a credit memorandum, an unpaid wage, an unused airline ticket, mineral proceeds, or an unidentified remittance;
- (3) stock and other ownership interest in a business association;
- (4) a bond, debenture, note, or other evidence of indebtedness;
- (5) money deposited to redeem stocks, bonds, coupons, and other securities or to make distributions;
- (6) an amount due and payable under the terms of an insurance policy; and
- (7) an amount distributable from a trust or custodial fund established under a plan to provide:
 - (A) health;
 - (B) welfare;
 - (C) pension;
 - (D) vacation;
 - (E) severance;
 - (F) retirement;
 - (G) death;
 - (H) stock purchase;
 - (I) profit sharing;
 - (J) employee savings;
 - (K) supplemental unemployment insurance; or
 - (L) similar;

(c) The term does not include transactions between business entities and:

- (1) a motor carrier (as defined in IC 8-2.1-17-10); or
- (2) a carrier (as defined in 49 U.S.C. 13102(3)).

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