



Reprinted
March 1, 2005

SENATE BILL No. 38

DIGEST OF SB 38 (Updated February 28, 2005 7:33 pm - DI 110)

Citations Affected: IC 24-5.

Synopsis: Gift certificates. Provides that a gift certificate may not expire or be subject to a fee unless certain conditions are met. Provides that a gift certificate may not expire in less than 12 months and a fee may not begin to accrue until at least six months after the date the gift certificate was issued.

Effective: July 1, 2005.

**Antich-Carr, Kenley, Breaux, Server,
Hume, Lanane, Sipes, Young R,
Landske, Rogers, Broden, Alting,
Bray, Steele, Skinner, Lutz L, Bowser,
Waterman, Lewis, Mrvan, Smith S**

January 4, 2005, read first time and referred to Committee on Commerce and Transportation.
February 24, 2005, amended, reported favorably — Do Pass.
February 28, 2005, read second time, amended, ordered engrossed.

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SB 38—LS 6001/DI 103+



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 October 31, 2005.

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

(1) 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.

(2) 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. (a) Except as provided in subsection (b) and 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 fee, maintenance fee, dormancy charge, or inactivity charge.

(b) A gift certificate may be subject to an initial fee at the time the gift certificate is issued.

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

(1) One (1) of the following is printed in at least 8 point type on the gift certificate or on a sticker permanently affixed to the gift certificate:

(A) The date or time period after which the gift certificate expires.

(B) The exact date on which the gift certificate was issued and the number of days following the date of issuance after which the gift certificate expires.

(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 fee if the following requirements are satisfied:

(1) The fee does not begin to accrue until at least six (6)

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1 months after the date on which the gift certificate was issued.
2 (2) A statement printed on the gift certificate or on a sticker
3 permanently affixed to the gift certificate in at least 8 point
4 type states:
5 (A) the type of fee and the dollar amount of the fee; and
6 (B) one (1) of the following:
7 (i) The date or time period after which the fee begins to
8 accrue.
9 (ii) The exact date on which the gift certificate was issued
10 and the number of days following the date of issuance
11 after which the fee begins to accrue.
12 Sec. 8. A provision in an agreement creating a gift certificate
13 that conflicts with this chapter is void.

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SENATE MOTION

Madam President: I move that Senator Sipes be added as second author of Senate Bill 38.

ANTICH-CARR



SENATE MOTION

Madam President: I move that Senator Kenley be added as coauthor of Senate Bill 38.

ANTICH-CARR



SENATE MOTION

Madam President: I move that Senators Breaux and Server be added as coauthors of Senate Bill 38.

ANTICH-CARR



SENATE MOTION

Madam President: I move that Senators Hume, Lanane and Simpson be added as coauthors of Senate Bill 38.

ANTICH-CARR



SENATE MOTION

Madam President: I move that Senator Kenley be removed as coauthor of Senate Bill 38.

KENLEY

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SENATE MOTION

Madam President: I move that Senator Sipes be removed as second author of Senate Bill 38.

SIPES

SENATE MOTION

Madam President: I move that Senator Kenley be added as second author and Senators Sipes and Young R be added as coauthors of Senate Bill 38.

ANTICH-CARR

SENATE MOTION

Madam President: I move that Senators Landske and Rogers be added as coauthors of Senate Bill 38.

ANTICH-CARR

SENATE MOTION

Madam President: I move that Senator Broden be added as coauthor of Senate Bill 38.

ANTICH-CARR

SENATE MOTION

Madam President: I move that Senator Simpson be removed as coauthor of Senate Bill 38.

SIMPSON

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SENATE MOTION

Madam President: I move that Senator Alting be added as coauthor of Senate Bill 38.

ANTICH-CARR



SENATE MOTION

Madam President: I move that Senator Bray be added as coauthor of Senate Bill 38.

ANTICH-CARR



SENATE MOTION

Madam President: I move that Senator Steele be added as coauthor of Senate Bill 38.

ANTICH-CARR



SENATE MOTION

Madam President: I move that Senator Skinner be added as coauthor of Senate Bill 38.

ANTICH-CARR



SENATE MOTION

Madam President: I move that Senator Lutz L be added as coauthor of Senate Bill 38.

ANTICH-CARR

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SENATE MOTION

Madam President: I move that Senator Bowser be added as coauthor of Senate Bill 38.

ANTICH-CARR

SENATE MOTION

Madam President: I move that Senator Waterman be added as coauthor of Senate Bill 38.

ANTICH-CARR

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COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Transportation, to which was referred Senate Bill No. 38, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 8, delete "June 30, 2005." and insert "**October 31, 2005.**".

Page 2, line 10, after "by" insert ":

(A)".

Page 2, line 11, delete "IC 22-2-4-1)." and insert "**IC 22-2-4-1); or (B) a person licensed by the Indiana department of financial institutions under IC 28-8-4.**".

Page 2, line 29, delete "expiration date" and insert "**language "Expires: (insert date)."**".

Page 2, line 38, delete "twenty-four (24)" and insert "**six (6)**".

Page 2, delete lines 39 through 40.

Page 2, line 41, delete "(3)" and insert "**(2)**".

Page 2, line 41, delete "one" and insert "**two dollars and fifty cents (\$2.50)**".

Page 2, line 42, delete "dollar (\$1)".

Page 2, line 43, delete "(4)" and insert "**(3)**".

Page 2, line 43, delete "requirements set forth in subdivisions (1) through (3)" and insert "**words "This certificate diminishes in value after (insert date) in the amount of (insert dollar amount) per month."**".

Page 3, between lines 1 and 2, begin a new paragraph and insert:

"Sec. 8. (a) The following may be printed on a gift certificate:

(1) The amount of the balance on the gift certificate.

(2) The name of the person that issued the gift certificate.

(b) Except as provided in sections 6 and 7 of this chapter and subsection (a), a gift certificate may not have any printed material on the gift certificate or on a sticker permanently affixed to the gift certificate."

Page 3, line 2, delete "8." and insert "**9.**".

Page 3, delete lines 4 through 40.

and when so amended that said bill do pass.

(Reference is to SB 38 as introduced.)

SERVER, Chairperson

Committee Vote: Yeas 6, Nays 4.

SB 38—LS 6001/DI 103+



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SENATE MOTION

Madam President: I move that Senators Lewis, Mrvan and Smith S be added as coauthors of Senate Bill 38.

ANTICH-CARR

 SENATE MOTION

Madam President: I move that Senate Bill 38 be amended to read as follows:

Page 2, delete lines 10 through 13.

Page 2, line 14, delete "(2)" and insert "**(1)**".

Page 2, line 18, delete "(3)" and insert "**(2)**".

Page 2, line 24, after "5." insert "**(a)**".

Page 2, line 24, after "provided in" insert "**subsection (b) and**".

Page 2, line 27, after "service" insert "**fee**".

Page 2, line 27, delete "or".

Page 2, line 27, delete "fee." and insert "**fee, dormancy charge, or inactivity charge.**".

Page 2, delete line 28, begin a new paragraph and insert:

"(b) A gift certificate may be subject to an initial fee at the time the gift certificate is issued."

Page 2, line 31, delete "The language "Expires: (insert date)."" and insert "**One (1) of the following**".

Page 2, line 32, delete "10" and insert "**8**".

Page 2, line 33, delete "certificate." and insert "**certificate:**

(A) The date or time period after which the gift certificate expires.

(B) The exact date on which the gift certificate was issued and the number of days following the date of issuance after which the gift certificate expires."

Page 2, line 36, delete "dormancy or".

Page 2, line 37, delete "inactivity charge" and insert "**fee**".

Page 2, delete lines 38 through 42, begin a new line block indented and insert:

"(1) The fee does not begin to accrue until at least six (6) months after the date on which the gift certificate was issued.

(2) A statement printed on the gift certificate or on a sticker permanently affixed to the gift certificate in at least 8 point type states:

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(A) the type of fee and the dollar amount of the fee; and

(B) one (1) of the following:

(i) The date or time period after which the fee begins to accrue.

(ii) The exact date on which the gift certificate was issued and the number of days following the date of issuance after which the fee begins to accrue."

Page 3, delete lines 1 through 12.

Page 3, line 13, delete "9." and insert "8."

(Reference is to SB 38 as printed February 25, 2005.)

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