

12205

HOUSE L&C



DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT  
Office of the Commissioner

*Frank H. Murkowski, Governor*  
*William C. Noll, Commissioner*

RECEIVED  
OCT 19 2006  
LEGISLATIVE AUDIT

September 29, 2006

Ms. Pat Davidson, CPA  
Legislative Auditor  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, Alaska 99811-3300

Dear Ms. Davidson,

Thank you for the opportunity to comment on the preliminary audit report for the Board of Certified Direct-Entry Midwives.

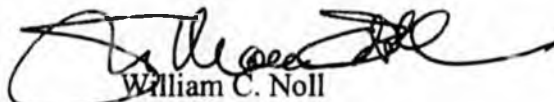
The department concurs with the audit findings. There are two items in the report that I would like to bring to your attention:

On page 8, the second to the last paragraph begins "The board sets fees..." should be corrected as identified in the previous paragraph, it is the "Department" who sets fees after consulting with the Board.

Additionally, on page 9, the first paragraph under Exhibit 1 discusses a proposal to set up a fund to cover legal costs. In FY05, the Division of Corporations, Business and Professional Licensing did propose the idea of creating a Legal Defense Fund patterned after a similar fund in the State of Colorado. However, there was strong opposition to that proposal by OMB and by members of the Legislature. Such a fund could help to avoid large increases in licensing fees when litigation costs arise.

Thanks again for the opportunity to comment on your findings.

Sincerely,

  
William C. Noll  
Commissioner

RECEIVED  
OCT 31 2006  
LEGISLATIVE AUDIT



Alaska Family Health & Birth Clinic  
728 Gaffney Road, Suite 100  
Fairbanks, AK 99701  
(907) 456-3719

Alaska State Legislature  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300

October 26, 2006

To Whom It May Concern:

This is written in response to the preliminary audit report concerning the Board of Certified Direct-entry Midwives. I concur with the recommendation that legislature extend the termination date of the board to June 30, 2015. My conclusions are the same as those in the audit report. In the Analysis of Public Need section on page 8, it implies that the board increased certification requirements for apprentice direct-entry supervisors. We tried to do this but were unable to change regulation because of wording in statute. Someday the Midwives Association of Alaska will need to go to legislature and try to get legislation passed to change wording in statute so that certain regs. can be addressed. I concur with the rest of the report. I am very pleased with the report.

Sincerely,

Dana Brown  
CDM Board Chair

LEGISLATIVE AUDITOR'S ADDITIONAL COMMENTS



LEGISLATIVE BUDGET AND AUDIT COMMITTEE  
Division of Legislative Audit

P.O. Box 113300  
Juneau, AK 9811-3300  
(907) 465-3830  
FAX (907) 465-2347  
legaudit@legis.state.ak.us

October 26, 2006

Members of the Legislative Budget  
and Audit Committee:

We have reviewed the response to our preliminary audit from the Board of Certified Direct-Entry Midwives. The response points out that the board was unsuccessful in their attempt to effect regulatory changes to 12 AAC 14.210 to increase certification requirements for apprentice direct-entry supervisors due to statutory language (AS 08.65.090(b)). We agree that certification requirements for apprentice direct-entry supervisors did not increase during the audit period, and that section of the report has been corrected.

A handwritten signature in black ink that reads "Pat Davidson".

Pat Davidson, CPA  
Legislative Auditor



Alaska Family Health & Birth Clinic  
728 Gaffney Road, Suite 100  
Fairbanks, AK 99701  
(907) 456-3719

January 17, 2007

Representative Scott Kawasaki  
State Capital Room 428  
Juneau, AK 99801

Dear Representative Kawasaki,

Thank you for reviewing the audit report for the Board of Certified Direct-Entry Midwives and your willingness to sponsor HB35. The Board and the Midwives Association of Alaska are in support of HB35. I would like to stay in communication with your office so that I can continue to support the bill as it moves through legislation. I am happy to be able to work with a Representative from Fairbanks on this!

Sincerely,

Dana Brown, Chair  
Board of Certified Direct-Entry Midwives

**HB**

**49**

# Alaska State Legislature

Interim:  
600 E. Railroad Ave  
Wasilla, AK 99654

Phone: (907) 376-3725  
Fax: (907) 376-4768



Session:  
Alaska State Capitol, Rm 108  
Juneau, AK 99801-1182

Phone: (907) 465-3743  
Fax: (907) 465-2381  
Toll Free: (800) 565-3743  
Rep\_Carl\_Gatto@legis.state.ak.us

**Representative Carl Gatto**  
Co-Chair, House Resources Committee  
District 13 - Palmer

## SPONSOR STATEMENT

### HB 49

*"An Act relating to credit memos, gift certificates, and gift cards, and to unclaimed property; and making a violation of certain gift card prohibitions an unlawful trade practice."*

Retailers and banks have been offering electronic "gift cards" in response to growing consumer demand for easier and more convenient gift options. Similar to a credit or debit card, these electronic gift cards allow recipients the flexibility to use the card at multiple locations. Most banks and retailers that issue these types of credit devices allow gift givers to choose from amounts as low as \$10 and as high as \$1,000.

Unfortunately, some banks and retailers have used this new opportunity to erode the purchasing power of gift cards by attaching a variety of fees and service charges, often failing clearly explain these provisions to purchasers and recipients. Commonly, issuers will attach a "dormancy fee" of \$2.50 or greater that is deducted monthly from the remaining balance as well as an "activation fee" of \$5 or more in order to begin using the card. A \$100 gift card would lose 35% of its value in one calendar year without making one purchase. Lastly, some of the issuers include expiration dates less than Alaska's unclaimed property laws.

In the last 5 years a number of states have adopted measures to limit or restrict fees attached to these gift cards as well as establish standard expiration periods allowing consumers a reasonable period to use their gift cards. HB 49 is modeled closely after Massachusetts statute that was adopted in 2002 and amended in 2003 and it is one of the most restrictive state laws in the country.

HB 49 will protect Alaska's consumers from unnecessary fees and prevent erosion of purchasing power. I urge your support of HB 49.

# Alaska State Legislature

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Phone: (907) 465-3743  
Fax: (907) 465-2381  
Toll Free: (800) 565-3743  
Rep\_Carl\_Gatto@legis.state.ak.us

**Representative Carl Gatto**  
Co-Chair, House Resources Committee  
District 13 - Palmer

## SECTIONAL ANALYSIS

### HB 49

*"An Act relating to credit memos, gift certificates, and gift cards, and to unclaimed property; and making a violation of certain gift card prohibitions an unlawful trade practice."*

**Section 1** – Repeals and reenacts AS 34.45.240 to remove the original reference of “gift certificate” and provides conforming amendments to the original statutes structure based on this change.

**Section 2** – Amends AS 34.45.760(11) to add “gift cards” as “intangible property” and provides the statutory definitional reference for gift cards.

**Section 3** – Creates a new subsection under AS 45.45 to properly define “gift cards” and the new definition covers previous references to “gift certificate”.

**Section 4** – Adds a reference to “gift cards” to unlawful acts and practices under AS 45.50.471.

**Section 5** – Removes the definition of “gift certificate” from the Unclaimed Property act.

the certificate itself.

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## STATE LEGISLATION

### 2007 Legislation

#### Alaska

##### H.B. 49

Relates to credit memos, gift certificates, and gift cards, and to unclaimed property; and makes a violation of certain gift card prohibitions an unlawful trade practice.

#### Indiana

##### H.B. 1124

Provides that a person that issues certain gift cards may not charge fees that reduce the value of the gift cards.

#### Minnesota

##### S.F. 69

Prohibits expiration dates and service fees on gift certificates and gift cards.

#### Mississippi

##### H.B. 260

Prohibits the sales of gift certificates with expiration dates, service fees or dormancy fees; allows cash redemption or replacement of gift certificates; provides exceptions.

##### S.B. 2040

Makes unlawful the sale of a gift certificate that contains an expiration date or a service fee, with certain exceptions; provides for application of this law; amends §75-24-5, Mississippi Code of 1972, to provide that violations of this act are subject to civil and criminal penalties under the consumer protection statutes.

#### Missouri

##### H.B. 299

Prohibits the use of expiration dates or service fees on gift certificates. Violations of the provisions of the bill will be considered unfair merchandising practices and be subject to penalties.

##### S.B. 76

Prohibits the use of expiration dates or service fees on gift certificates. Consumers are entitled to receive the remaining balance of a gift certificate in cash, provided they have used at least 50 percent of the original value of the certificate. Violations of the act shall be considered unfair marketing practices subject to certain unlawful merchandising practice penalties.

#### Montana

##### S.B. 135

Establishes state equity in the value of abandoned gift certificates and stored value cards; revises and clarifies certain provisions of the consumer protection act related to gift certificates in order to provide conformity between that act and the Uniform Unclaimed Property Act; requires issuers of gift certificates and issuers of stored value cards to obtain the name and the address of the person entitled to the property; provides that the Department of Revenue, as administrator of the Uniform Unclaimed Property Act, is presumed the owner of a gift certificate or stored value card under certain conditions.

#### New Jersey

##### A.B. 720

Under the provisions of P.L.2002, c.14 (C.56:8-110) a gift certificate issued by a retail merchandise establishment remains valid until the certificate is redeemed, unless conditions and limitations on redemption are disclosed to the purchaser and are conspicuously printed on the certificate. This bill provides that such gift certificates shall be valid and redeemable at full face value until redeemed.

##### A.B. 2258

##### S.B. 1249

Incorporates prepaid bank cards, defined in the bill as a form of gift card, into the existing statutory provisions which regulate the expiration dates and dormancy fees for gift cards and gift certificates generally. These prepaid bank cards include mall gift cards issued by third party banks or other financial institutions which are usable at multiple, unaffiliated merchants within a particular shopping mall. By incorporating prepaid bank cards into the existing gift card and gift certificate statutory requirements, the bill: 1) prohibits the

expiration of prepaid bank cards within 24 months immediately following the date of sale by the original purchaser of the card; 2) prohibits the charging of a dormancy fee against a prepaid bank card within 24 months immediately following the date of sale, and within 24 months immediately following the most recent activity or transaction in which the card is used; 3) limits the dormancy fee, when applicable, charged against a prepaid bank card to no more than \$2.00 per month; and 4) requires appropriate disclosure of the above card expiration and dormancy fee provisions to prepaid bank card consumers.

**A.B. 3866**

Makes it an unlawful practice under the Consumer Fraud Act to sell certain products via an Internet auction. The bill targets those products typically stolen from retailers by shoplifting gangs and resold over the Internet. The bill makes it an unlawful practice for a person to sell a value loaded card via Internet auction unless the seller provides to the auctioneer, as well as the company's general counsel, a written or electronic record of the purchase or acquisition of the value loaded card, including the serial number and amount of the value loaded card; the date of purchase of the value loaded card; and the name, address and phone number of the person from whom that value loaded card was purchased or acquired. If a person sells an aggregate of five or more value loaded cards in contemporaneous Internet auctions conducted by an Internet auctioneer, the Internet auctioneer has 24 hours to notify the retailer of the sale in writing or electronically. The auctioneer must give the retailer relevant information about the seller, including the sales history and all aliases and accounts used by the person. The bill requires Internet auctioneers to immediately terminate an Internet auction if they receive information providing a reasonable basis to conclude that the auction violates the bill's provisions or that the merchandise is stolen. Internet auctioneers who affirmatively demonstrate that they have received the information required by the bill will not be deemed liable.

**New York****A.B. 41**

Prohibits the sale of gift certificates and gift cards that diminish in value due to dormancy; and prohibits surcharges and fees on gift certificates and gift cards.

**Utah****H.B. 261**

Makes it a violation of Title 13, Chapter 11, Utah Consumer Sales Practices Act, to issue a gift certificate that has an expiration date or deducts a fee without disclosing the expiration date or fee on the gift certificate or its packaging; provides that a gift certificate that does not disclose an expiration date or fee neither expires nor is subject to a fee; and makes technical changes.

**Virginia****H.B. 2552**

Expands the existing provisions regarding gift certificate disclosures to prohibit the issuer of a gift certificate from charging a maintenance fee, service fee, inactivity fee, or other fee on the gift certificate. Gift certificate issuers are also prohibited from placing an expiration date or otherwise limiting the time for the redemption of a gift certificate and from issuing a gift certificate that diminishes in value over time unless the gift certificate was issued pursuant to an awards or loyalty program where no money or thing of value exchanged or was donated to a charitable organization. The definition of a gift certificate is expanded to include any record that contains a microprocessor chip, magnetic strip, or other storage medium that is prefunded and for which the value is adjusted upon each use. The definition also includes card-activated prepaid long distance telephone service. The measures apply to all issuers of gift certificates in the Commonwealth; currently, the gift certificate disclosure requirements apply only to merchants.

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**2006 Legislation****Connecticut****S.B. 503**

Requires retailers holding closing-out sale licenses to (1) honor their gift cards and certificates, (2) allow gift card and certificate holders to redeem them for either consumer goods or their cash value, and (3) include in all advertisements a notice that gift cards and certificates may be redeemed before the store closes. It prohibits them from selling, offering to sell, or advertising the sale of gift cards or certificates after applying for a closing-out sale license.

**Hawaii****H.B. 1980**

*Passed House 3/7/06*

Exempts multi-use gift cards from definition of gift certificate.

**H.B. 3084**

Adds maintenance fees as a fee that is prohibited from being charged to dormant or inactive gift certificates.

**S.B. 2096**

Exempts multi-use gift cards from definition of gift certificate.

**Illinois****H.B. 4205***Passed House 2/21/06*

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that no person shall sell a gift certificate that is subject to an expiration date or fee on or after January 1, 2007. Provides that the face value of a gift certificate may not be reduced in value and the holder of a gift certificate may not be penalized in any way for non-use or untimely redemption of the gift certificate. Deletes language requiring that a gift certificate subject to a fee or expiration date contain a statement clearly and conspicuously printed on the gift certificate stating the expiration date or whether there is a fee.

**S.B. 2196**

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that no person shall sell a gift certificate that is subject to an expiration date or a fee. Provides that the face value of a gift certificate may not be reduced in value and the holder of a gift certificate may not be penalized in any way for non-use or untimely redemption of the gift certificate. Deletes language requiring that a gift certificate subject to a fee or expiration date contain a statement clearly and conspicuously printed on the gift certificate stating the expiration date or whether there is a fee.

**S.B. 2451**

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that no person shall sell a gift certificate that is subject to an expiration date or a fee. Provides that the face value of a gift certificate may not be reduced in value and the holder of a gift certificate may not be penalized in any way for non-use or untimely redemption of the gift certificate. Deletes language requiring that a gift certificate subject to a fee or expiration date contain a statement clearly and conspicuously printed on the gift certificate stating the expiration date or whether there is a fee.

**Iowa****H.F. 600**

Relates to the redemption, sale, and issuance of gift certificates. Provides a definition of "gift certificate" which includes a writing or instrument usable for the purchase of goods, property, or services sold or provided by the seller or issuer of the gift certificate. Provides that gift certificates shall be considered abandoned property under Code chapter 556 if the gift certificate is not redeemed within three years after the later of the date the gift certificate was purchased or issued or the date of the last transaction using the gift certificate. Abandoned property is required to be annually reported to the state treasurer who publishes a list of the abandoned property for public view. Provides, in new Code section 537.3312, that a gift certificate shall be redeemable for its full value and prohibits a seller, issuer, or holder of a gift certificate from assessing any fee or charge against the value of a gift certificate or selling or issuing a gift certificate with an expiration date. The bill also prohibits a seller, issuer, or holder from imposing any other term or condition that limits the ability of the owner to redeem the gift certificate for its full value, including the ability to receive cash for the unredeemed value of the gift certificate. A person who assesses a fee or charge, issues a gift certificate with an expiration date, or imposes any other term limiting the redemption of the certificate in violation of new Code section 537.3312 commits a consumer fraud under Code section 714.16 and may be subject to civil penalties and a civil action brought by the attorney general for damages incurred as a result of the violation. A person in violation of new Code section 537.3312 is also subject to a civil action brought by the injured consumer for penalties in an amount not less than \$100 nor more than \$1,000 per violation.

**Kansas****H.B. 2658***Signed by governor 4/14/06, Chapter 116*

Makes it a violation of the Kansas Consumer Protection Act from and after January 1, 2007, to sell a gift card or gift certificate containing an expiration date which is less than five years from the date of purchase. A gift certificate is defined to mean a written promise given in exchange for full or discounted payment or without any money or other thing of value being given in exchange to provide merchandise in a specified amount or of equal value to the bearer of the certificate. A prepaid bank card is defined to mean a general use, prepaid card or other electronic payment device that is issued by a bank or other financial institution in a predenominated amount useable at multiple, unaffiliated merchants or at automated teller machines, or both.

**Kentucky****H.B. 259**

Creates a new section of KRS Chapter 367 to define "gift card"; requires that gift cards shall not be sold without an expiration date that is at least one year from the date of purchase; prohibits any fees being assessed to deduct the value of the card before the expiration date; and provides that any fees to be assessed must be disclosed.

**S.B. 49***Signed by governor 3/24/06, Chapter 28*

Creates a new section of KRS Chapter 367 to provide minimum lengths of time for the expiration of gift cards issued by businesses or charitable organizations; limits service charges or fees that may have the effect of reducing the value of the card, and mandates that a gift card sold without an expiration date is valid until redeemed or replaced. Exempts a general-use, prepaid card or other electronic payment device that is issued by a bank or other financial institution that is usable at multiple, unaffiliated merchants, or at automated

teller machines, or both, from the definition of a "gift card."

**Massachusetts**

H.B. 3715

Regulates credit backed or bank issued gift cards.

H.B. 3723

Relates to gift certificates.

H.B. 3824

Reinstates gift certificates, gift cards and general use prepaid cards as reportable abandoned property if unused three years from the date of issuance or last activity.

H.B. 5012

Prohibits excessive fees on gift certificates and gift cards.

S.B. 2114

*Substituted by S.B. 2442 3/21/06*

Regulates gift cards, gift certificates and electronic wage cards.

S.B. 2442

*Passed Senate 3/22/06*

Prohibits excessive fees on gift certificates and gift cards.

**Michigan**

S.B. 950

Regulates the sale of certain gift certificates by a person engaged in a trade or commerce under the Michigan Consumer Protection Act.

**Minnesota**

S.F. 3693

Requires a state employer that has an employee recognition program that awards gifts to its employees based on years of service must allow the employees the option of choosing a gift certificate of equivalent value from the Minnesota Historical Society for use in a historical society store or the online store. For the purposes of this section, "state employer" means any state department, office, board, commission, authority, legislative office, judicial office, and the Metropolitan Council.

**Mississippi**

H.B. 128

*Died in committee 1/31/06*

Prohibits the sales of gift certificates with expiration dates, service fees or dormancy fees; allows cash redemption or replacement of gift certificates; provide exceptions.

S.B. 2172

*Died in committee 1/31/06*

Makes unlawful the sale of a gift certificate that contains an expiration date or a service fee, with certain exceptions; provides for application of this law; provides that violations of this act are subject to civil and criminal penalties under the consumer protection statutes.

**Missouri**

S.B. 685

Prohibits expiration dates or service fees for dormancy on gifts certificates issued by companies. Allows the consumer to receive the remaining balance of a gift certificate in cash, provided they have already used fifty percent of the original value of the certificate. Violations of the act shall be considered unfair marketing practices subject to the penalties outlined in Section 407.020, RSMo.

**Nebraska**

L.B. 173

*Signed by governor 3/7/06*

Relates to the Uniform Disposition of Unclaimed Property Act. Changes provisions regarding gift certificates.

**New Jersey**

A.B. 720

Under the provisions of P.L.2002, c.14 (C.56:8-110) a gift certificate issued by a retail merchandise establishment remains valid until the certificate is redeemed, unless conditions and limitations on redemption are disclosed to the purchaser and are conspicuously printed on the certificate. This bill provides that such gift certificates shall be valid and redeemable at full face value until redeemed.

**A.B. 2258****S.B. 1249**

Incorporates prepaid bank cards, defined in the bill as a form of gift card, into the existing statutory provisions which regulate the expiration dates and dormancy fees for gift cards and gift certificates generally. These prepaid bank cards include mall gift cards issued by third party banks or other financial institutions which are usable at multiple, unaffiliated merchants within a particular shopping mall. By incorporating prepaid bank cards into the existing gift card and gift certificate statutory requirements, the bill: 1) prohibits the expiration of prepaid bank cards within 24 months immediately following the date of sale by the original purchaser of the card; 2) prohibits the charging of a dormancy fee against a prepaid bank card within 24 months immediately following the date of sale, and within 24 months immediately following the most recent activity or transaction in which the card is used; 3) limits the dormancy fee, when applicable, charged against a prepaid bank card to no more than \$2.00 per month; and 4) requires appropriate disclosure of the above card expiration and dormancy fee provisions to prepaid bank card consumers.

**Ohio****S.B. 33**

*Signed by governor 4/17/06, Chapter 59*

Prohibits the sale of a gift certificate that has an expiration date that is less than two years after the date the gift certificate is issued and prohibits service charges or fees having the effect of reducing the value of the gift certificate.

**Oklahoma****H.B. 2635**

*Signed by governor 4/17/06, Chapter 59*

Relates to the Gift Certificate and Gift Card Disclosure Act; adds definition and modifying exemptions.

**Pennsylvania****H.B. 311**

Relates to dormancy fees on a gift certificate or gift card.

**H.B. 552**

*Signed by governor 11/9/06, Act 138*

Defines gift card, gift certificate and qualified gift certificate. Provides for unclaimed property.

**Tennessee****H.B. 132****S.B. 385**

Requires any retailer issuing a gift certificate to permit the recipient of the gift certificate to redeem 50 percent of the face value of the certificate in cash.

**H.B. 1245****S.B. 831**

Prohibits gift certificates from expiring unless expiration date is clearly stated on gift certificate; makes violations subject to Consumer Protection Act.

**H.B. 1742**

*Signed by governor 6/20/06, Public Chapter 929*

**S.B. 2069**

Specifies that a gift certificate exempt from the prohibition on gift certificates having an expiration date within two years of issuance are also exempt from the prohibition on service charges or fees being imposed on the gift certificates.

**H.B. 2574**

*Signed by governor 5/5/06, Public Chapter 622*

**S.B. 2702**

Prohibits sale of gift certificates that decrease in value or expire after a certain date.

**H.B. 3279****S.B. 3680**

Prohibits the sale of gift certificates with an expiration date after July 1, 2006, and the imposition of any fee associated with such gift certificates and requires the redemption of gift certificates for full cash value upon request.

**West Virginia****S.B. 780**

*Passed Senate 3/1/06*

Relates to gift certificates generally; defines terms; prohibits expiration dates on gift certificates of less than three years; states exceptions; limits imposition of various fees and charges which reduce the value of a gift certificate; and imposes penalties.

**Wisconsin****A.B. 583**

*Failed to pass pursuant to Senate Joint Resolution 1 5/11/06*

Regulates the sale and redemption of gift certificates, gift cards, and similar items (gift obligations). The bill prohibits the following: 1) failing to honor a valid gift obligation; 2) selling a gift obligation that is subject to an expiration date; and 3) reducing the value of a gift obligation except for the sale price of goods or services provided to the bearer. Furthermore, when a person redeems a gift obligation and the resulting balance of the gift obligation is less than \$5, the bill requires the person redeeming the gift obligation to refund the balance in cash, upon the request of the person redeeming the gift obligation. The bill also requires a merchant, upon presentation of a gift obligation, to disclose the date when the gift obligation was issued and the remaining balance. Under the bill, the prohibitions numbered 2 and 3, above, do not apply to a gift obligation given or sold for less than face value to a nonprofit organization or to a person who transfers the gift obligation to another primarily for the benefit of a nonprofit organization. The Department of Agriculture, Trade and Consumer Protection or the district attorney, under the bill, may enforce the provisions of the bill by bringing an action for a forfeiture up to \$10,000. Also, the bill creates a private right of action in which a person may recover the greater of twice the person's pecuniary loss or \$200 for each violation. Violations may also constitute unfair competition or unfair trade practices.

**S.B. 292**

*Failed to pass pursuant to Senate Joint Resolution 1 5/11/06*

Regulates the sale and redemption of gift certificates, gift cards, and similar items (gift obligations). The bill prohibits the following: 1) failing to honor a valid gift obligation; 2) selling a gift obligation that is subject to an expiration date; and 3) reducing the value of a gift obligation except for the sale price of goods or services provided to the bearer. Furthermore, when a person redeems a gift obligation and the resulting balance of the gift obligation is less than \$5, the bill requires the person redeeming the gift obligation to refund the balance in cash, upon the request of the person redeeming the gift obligation. The bill also requires a merchant, upon presentation of a gift obligation, to disclose the date when the gift obligation was issued and the remaining balance. Under the bill, the prohibitions numbered 2 and 3, above, do not apply to a gift obligation given or sold for less than face value to a nonprofit organization or to a person who transfers the gift obligation to another primarily for the benefit of a nonprofit organization. The Department of Agriculture, Trade and Consumer Protection or the district attorney, under the bill, may enforce the provisions of the bill by bringing an action for a forfeiture up to \$10,000. Also, the bill creates a private right of action in which a person may recover the greater of twice the person's pecuniary loss or \$200 for each violation. Violations may also constitute unfair competition or unfair trade practices.

**S.B. 392**

*Failed to pass pursuant to Senate Joint Resolution 1 5/11/06*

Regulates the sale of gift certificates, gift cards, or similar items (gift obligations). A seller of a gift obligation must conspicuously disclose to a purchaser any expiration date that applies to the gift obligation and the terms and amount of any service charge that apply to the gift obligation. The disclosure requirements do not apply to a gift obligation that is valid at more than one seller of goods or services.

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**2005 Legislation****Alabama****H.B. 414**

Prohibits the sale of any gift certificate that contains an expiration date or a service fee.

**Alaska****H.B. 310**

Relates to gift or credit certificates and making violations of certain gift or credit certificate requirements unlawful trade practices; and relating to unclaimed property.

**Arizona****S.B. 1022**

Prohibits service fees on gift cards.

**S.B. 1299**

*Signed by governor 5/20/05, Chapter 315*

Defines gift card as any gift certificate, gift card, electronic gift card or any other medium purchased from the issuer for the purpose of making future purchases or delivery of goods or services, and defines fee as that which is automatically deducted due to a period of nonuse or inactivity. Requires the expiration date and the amount and date of the fee of a gift card, that is subject to an expiration date and fee, be clearly and conspicuously disclosed: 1) To the consumer at time of purchase. 2) Via the means used to purchase the gift card if purchased electronically or by computer. 3) Verbally if purchased by telephone. Clarifies that outlined requirements do not apply to: 1) A gift card distributed to consumers as an award or promotional program in which the consumer does not exchange money or

anything of value for the card. 2) A gift card sold below face value or donated to a nonprofit or charitable organization for fund raising purposes. 3) A prepaid phone card, a debit card or an electronic funds transfer card. Designates a penalty of up to \$500 per violation. Contains a delayed effective date of October 31, 2005.

**S.B. 1454**

Relates to gift certificates and prohibitions regarding the sale of gift certificates.

**California****A.B. 175**

*Passed Assembly 4/21/05*

Enacts the Gift Cards Usable with Multiple Sellers of Goods or Services Disclosures Act to require that a gift card usable with those sellers clearly and conspicuously disclose its purchase price, any dormancy or regularly recurring maintenance or service fee, and the fee to obtain any remaining balance on that card, if applicable. Excepts from those requirements, any card that was distributed for free, as specified, and prepaid calling cards.

**Colorado****H.B. 1144**

*Postponed indefinitely 2/5/05*

Prohibits a person or entity from selling a gift certificate or gift card containing an expiration date. Creates an exemption for certain gift certificates and gift cards that have an expiration date of not less than five years after the issuance of the certificate or card, in capital letters in at least 10-point type, and that: Are distributed to a consumer pursuant to an awards, loyalty, or promotional program when nothing of value is exchanged for the gift certificate or gift card by the consumer; Are sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes; or Are usable with multiple sellers of goods or services. Prohibits an issuer of a gift certificate or gift card from charging any fees in connection with the issuance of the gift certificate or gift card unless the fee is charged at the time of purchase of the certificate or card. Makes a violation of the limitations regarding gift certificates and gift cards a deceptive trade practice.

**Connecticut****H.B. 5073**

*Failed Joint Favorable deadline 3/22/05*

Prohibits gift certificates from escheating to the state.

**H.B. 5139**

*Failed Joint Favorable deadline 3/22/05*

Makes it an unfair trade practice to violate the state's gift card laws.

**H.B. 6067**

*Tabled 4/19/05*

Prohibits expiration dates on any gift card or gift certificate, including those gift cards and gift certificates that have already been purchased.

**S.B. 83**

*Signed by governor 7/13/05, Public Act 05-273*

Adds a gift certificate as property to a section of existing law that states that there may not be charged upon such property a dormancy charge or fee, abandoned property charge or fee, unclaimed property charge or fee, escheat charge of fee, inactivity charge or fee, or any similar charge of fee or penalty for inactivity with respect to the property.

**S.B. 123**

*Signed by governor 7/1/05, Public Act 05-189*

Provides that gift certificates that are not used within three years of issue do not escheat to the state.

**S.B. 414**

*Failed Joint Favorable deadline 3/22/05*

Provides that gift cards and gift certificates that are not redeemed shall not be presumed to be abandoned and shall not escheat to the state.

**Georgia****S.B. 13**

*Signed by governor 5/9/05, Act 367*

Relates to unfair or deceptive practices in consumer transactions; provides for Gift Card Integrity Act of 2005; provides for definitions; provides that the terms of gift certificates, store gift cards, and general use prepaid cards shall be disclosed at the time of purchase and through certain notifications.

**Illinois**

**H.B. 4111**

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that no person shall: (1) refuse to honor a valid gift certificate; (2) reduce the value of a gift certificate, except when the holder of a gift certificate partially redeems the gift certificate as payment for goods or services; or (3) sell a gift certificate that is subject to an expiration date. Provides that upon the presentation of a gift certificate, the issuer shall disclose to the holder the date on which the gift certificate was issued and the remaining balance of the gift certificate. Deletes language requiring a gift certificate subject to an expiration date to contain a statement clearly and conspicuously printed on the gift certificate stating the expiration date.

**Indiana****H.B. 1404**

Provides that a gift certificate may not expire.

**S.B. 38**

*Passed Senate 3/1/05*

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.

**S.R. 56**

Urges the Legislative Council to direct an appropriate study committee to review issues regarding the issuance and use of gift certificates.

**Iowa****H.F. 600**

Relates to the redemption, sale, and issuance of gift certificates. Provides a definition of "gift certificate" which includes a writing or instrument usable for the purchase of goods, property, or services sold or provided by the seller or issuer of the gift certificate. Provides that gift certificates shall be considered abandoned property under Code chapter 556 if the gift certificate is not redeemed within three years after the later of the date the gift certificate was purchased or issued or the date of the last transaction using the gift certificate. Abandoned property is required to be annually reported to the state treasurer who publishes a list of the abandoned property for public view. Provides, in new Code section 537.3312, that a gift certificate shall be redeemable for its full value and prohibits a seller, issuer, or holder of a gift certificate from assessing any fee or charge against the value of a gift certificate or selling or issuing a gift certificate with an expiration date. The bill also prohibits a seller, issuer, or holder from imposing any other term or condition that limits the ability of the owner to redeem the gift certificate for its full value, including the ability to receive cash for the unredeemed value of the gift certificate. A person who assesses a fee or charge, issues a gift certificate with an expiration date, or imposes any other term limiting the redemption of the certificate in violation of new Code section 537.3312 commits a consumer fraud under Code section 714.16 and may be subject to civil penalties and a civil action brought by the attorney general for damages incurred as a result of the violation. A person in violation of new Code section 537.3312 is also subject to a civil action brought by the injured consumer for penalties in an amount not less than \$100 nor more than \$1,000 per violation.

**S.F. 273**

Relates to the redemption, sale, and issuance of gift certificates. Provides a definition of "gift certificate" which includes a writing or instrument usable for the purchase of goods, property, or services sold or provided by the seller or issuer of the gift certificate. Provides that gift certificates shall be considered abandoned property under Code chapter 556 if the gift certificate is not redeemed within three years after the later of the date the gift certificate was purchased or issued or the date of the last transaction using the gift certificate. Abandoned property is required to be annually reported to the state treasurer who publishes a list of the abandoned property for public view. Provides, in new Code section 537.3312, that a gift certificate shall be redeemable for its full value and prohibits a seller, issuer, or holder of a gift certificate from assessing any fee or charge against the value of a gift certificate or selling or issuing a gift certificate with an expiration date. Prohibits a seller, issuer, or holder from imposing any other term or condition that limits the ability of the owner to redeem the gift certificate for its full value, including the ability to receive cash for the unredeemed value of the gift certificate. A person who assesses a fee or charge, issues a gift certificate with an expiration date, or imposes any other term limiting the redemption of the certificate in violation of new Code section 537.3312 commits a consumer fraud under Code section 714.16 and may be subject to civil penalties and a civil action brought by the attorney general for damages incurred as a result of the violation. A person in violation of new Code section 537.3312 is also subject to a civil action brought by the injured consumer for penalties in an amount not less than \$100 nor more than \$1,000 per violation.

**Maine****L.D. 771**

Prohibits an issuer from charging dormancy charges or other fees prior to the date that the gift obligation is presumed abandoned; after that, any dormancy charges or fees impose may not be unconscionable.

**L.D. 772**

Prohibits an issuer of gift certificates from placing an expiration date on a gift certificate.

**L.D. 838**

Exempts from the abandoned property reporting requirement gift obligations that do not have an expiration date or dormancy charges levied upon them and effectively exempts such gift obligations from the presumption of abandonment.

L.D. 1084

*Signed by governor 6/9/05, Chapter 357*

Prohibits an issuer from placing an expiration date on a gift obligation. Prohibits an issuer from charging dormancy charges or other fees, either before or after the start of the presumptive abandonment period. Presumes that the abandoned amount is the face value of the gift obligation, requiring the issuer to turn that amount over to the state treasurer as abandoned property.

**Maryland**

H.B. 551

*Passed Senate 4/11/05*

Prohibits a person from selling a gift certificate that is subject to expiration or specified fees or charges within three years after purchase; requires disclosure of terms and conditions of gift certificates in a specified manner; prohibits a change of terms or conditions after purchase; provides that a gift certificate sold in violation of the Act may be considered valid and may not be subject to expiration or any service fee.

H.B. 667

Prohibits a person from selling a gift certificate that contains an expiration date unless specified conditions are met; prohibits a person from selling a gift certificate that contains a service fee under specified circumstances; authorizes a seller of a gift certificate to assess a service fee for dormancy under specified circumstances; provides that a gift certificate sold in violation of the Act shall be considered valid and shall not be subject to an expiration date or service fee.

H.B. 1053

Authorizes a gift card or gift certificate to be subject to expiration or a service fee if specified disclosures are printed on the gift card or gift certificate; requires the seller of a gift card or gift certificate to give the purchaser a written statement of disclosures under specified circumstances; authorizes the seller of a gift card or gift certificate to give the purchaser a written statement of disclosures or to post a specified sign instead of printing the disclosures on the gift card or gift certificate.

S.B. 8

*Signed by governor 5/26/05, Chapter 456*

Prohibits a person from selling a gift certificate that contains an expiration date unless specified conditions are met; prohibits a person from selling a gift certificate that contains a service fee; provides that a gift certificate sold in violation of the Act shall be considered valid and may not be subject to an expiration date or service fee.

S.B. 301

Authorizes a gift card or gift certificate to be subject to expiration or a service fee if specified disclosures are printed on the gift card or gift certificate; requires the seller of a gift card or gift certificate to give the purchaser a written statement of disclosures under specified circumstances; authorizes the seller of a gift card or gift certificate to give the purchaser a written statement of disclosures or to post a specified sign instead of printing the disclosures on the gift card or gift certificate.

**Massachusetts**

H.B. 3715

Regulates credit backed or bank issued gift cards.

H.B. 3723

Relates to gift certificates.

H.B. 3824

Reinstates gift certificates, gift cards and general use prepaid cards as reportable abandoned property if unused three years from the date of issuance or last activity.

S.B. 222

Prohibits excessive fees on gift certificates and gift cards.

S.B. 2214

Regulates gift cards, gift certificates and electronic wage cards.

**Michigan**

H.B. 5236

Modifies application of unclaimed property act to gift certificates.

H.B. 5437

Regulates and requires disclosures for gift cards and gift certificates.

H.B. 5530

Prohibits fees and expiration dates on gift cards and gift certificates.

**Minnesota**

H.F. 28

S.F. 126

Relates to consumer protection; regulates gift certificates and gift cards.

H.F. 393

S.F. 200

*Passed Senate 5/23/05*

Prohibits expiration dates and service fees on gift certificates and gift cards.

H.F. 585

S.F. 219

Regulates gift certificates and gift cards; provides penalties and remedies.

H.F. 927

Relates to consumer protection; regulates gift certificates and gift cards; provides remedies.

**Mississippi**

H.B. 146

*Died in committee 2/1/05*

Prohibits the sales of gift certificates with expiration dates, service fees or dormancy fees; allows cash redemption or replacement of gift certificates; provides for exceptions.

S.B. 2660

*Died in committee 2/1/05*

Makes unlawful the sale of a gift certificate that contains an expiration date or a service fee, with certain exceptions; provides for application of this section; provides that violations of this act are subject to civil and criminal penalties under the consumer protection statutes.

**Montana**

H.B. 295

*Signed by governor 4/19/05, Chapter 291*

Prohibits expiration dates on gift cards and gift certificates; associates ownership with the possessor of the card or certificate; limits fees; allows limited cash redemption.

S.B. 192

*Missed deadline for general bill transmittal 3/1/05*

Removes gift certificates from abandoned property if not used.

**Nebraska**

L.B. 173

Relates to the Uniform Disposition of Unclaimed Property Act. Changes provisions regarding gift certificates.

**Nevada**

A.B. 2

Prohibits issuance of gift card or gift certificate that contains expiration date.

A.B. 19

*Signed by governor 6/10/05, Chapter 336*

Prohibits issuance of gift certificate that contains expiration date and prohibits issuer of gift certificate from charging fee for inactivity to buyer or holder of gift certificate.

**New Jersey**

A.B. 1079

*Passed Senate 6/25/05*

S.B. 2187

*Substituted 6/27/05*

S.F. 2296

*Combined with S.B. 2187 6/16/05*

Provides that a gift certificate issued by a retail merchandise establishment shall be redeemable at full face value in perpetuity.

**New York****A.B. 1643**

Relates to the sale and use of gift certificates; requires that gift certificates last for at least seven years; requires that the date of issuance and the date of expiration of a gift certificate be either printed on the gift certificate, printed on a customer's receipt, or available through an Internet and toll-free telephone service.

**A.B. 4391**

Provides that gift certificates and store credits shall not contain expiration dates, except in limited circumstances where they are issued for promotional purposes without value being given by the consumer; makes certificates or credit with an expiration date redeemable in cash or replaceable by a certificate or credit without an expiration date.

**A.B. 6681**

Requires that gift certificates, gift cards, or store credits have no expiration or diminution in value over time.

**A.B. 6776**

Prohibits the sale of gift certificates and gift cards that diminish in value due to dormancy; and prohibits surcharges and fees on gift certificates and gift cards.

**North Dakota****S.B. 2286**

*Failed to pass Senate 2/11/05*

Creates and enacts a new section to chapter 51-07 of the North Dakota Century Code, relating to unfair trade practices and gift certificates; and provides a penalty.

**S.B. 2335**

*Signed by governor 4/6/05, Chapter 51-29*

Creates and enacts chapter 51-29 of the North Dakota Century Code, relating to gift certificate sales, expiration dates, and service or maintenance fees; amends and reenacts sections 47-30.1-01 and 47-30.1-14 of the North Dakota Century Code, relating to abandoned property under the Uniform Unclaimed Property Act; and provides a penalty.

**Ohio****S.B. 33**

*Passed Senate 6/15/05*

Prohibits the sale of a gift certificate that has an expiration date that is less than two years after the date the gift certificate is issued and prohibits service charges or fees having the effect of reducing the value of the gift certificate.

**Oklahoma****H.B. 198**

*Signed by governor 5/26/05*

Enacts the Gift Certificate Disclosure Act; prohibits the sale of certain certificates; provides exceptions; allows multiple contributors for a gift certificate under certain circumstances; declares the value of certificates to be held in trust by the issuer; requires certificates to be honored for the value regardless of issuer bankruptcy; provides certain limitations of the Gift Certificate Disclosure Act.

**Oregon****H.B. 2036**

Prohibits a person from issuing gift card that expires or has cash value that declines over time or with lack of use. Prohibits a person from charging a fee related to a gift card. Creates exceptions. Makes violation of prohibition unlawful trade practice.

**H.B. 2988**

Prohibits person from issuing gift card that expires or has face value that declines over time or with lack of use. Prohibits person from charging fee related to gift card. Creates exceptions. Makes violation of prohibition unlawful trade practice.

**S.B. 805**

Provides that unused gift cards become abandoned property. Prohibits expiration dates for gift cards and prohibits certain fees related to gift cards. Provides that violation of these prohibitions is unlawful trade practice.

**Pennsylvania****H.B. 311**

Relates to dormancy fees on a gift certificate or gift card.

**H.B. 552**

Provides for escheated property and the proceeds of its sale. Defines gift card, gift certificate and qualified gift certificate.

**H.B. 556**

Prohibits the sale or issuance of certain gift certificates with expiration dates and the imposition of transaction, service or convenience fees; provides the attorney general certain powers and duties.

H.B. 676

Prohibits the sale of gift certificates and gift cards with expiration dates.

S.B. 515

Prohibits the sale or issuance of certain gift certificates with expiration dates and the imposition of transaction, service or convenience fees; provides the attorney general certain powers and duties; and makes a repeal.

**Rhode Island**

H.B. 5027

*Became law without governor's signature 7/8/05, Chapter 209*

Expands the definition of a gift certificate and prohibits the issuer from charging additional fees on the gift certificate.

H.B. 5157

Deletes subsection (a) of 6-13-12 thereby allowing this section to apply to most general use prepaid cards.

H.B. 5471

Adds prepaid gift service cards to the protections provided to gift certificates.

H.B. 5770

*Became law without governor's signature 7/8/05, Chapter 202*

Deletes all references with respect to gift certificates in connection with unclaimed intangible property and would also provide that gift certificates shall not be presumed to be abandoned.

H.B. 5777

*Became law without governor's signature 7/23/05, Chapter 439*

Expands the definition of a gift certificate to include prepaid long distance telephone service cards; prohibits the issuer from charging additional fees on the gift certificate; allows the Division of Taxation to escheat funds paid for unredeemed gift certificates.

S.B. 136

Prohibits merchants from reducing the value of gift certificates, based solely on the passage of time, for a period of three years.

S.B. 455

Removes the confusion among businesses concerning their responsibility for reporting unclaimed property for nonredeemed gift certificates.

S.B. 456

Expands the definition of a gift certificate and prohibits the issuer from charging additional fees on the gift certificate.

S.B. 491

*Became law without governor's signature 7/7/2005, Chapter 194*

Deletes all references with respect to gift certificates in connection with unclaimed intangible property and would also provide that gift certificates shall not be presumed to be abandoned.

**Tennessee**

H.B. 132

S.B. 385

Requires any retailer issuing a gift certificate to permit the recipient of the gift certificate to redeem 50 percent of the face value of the certificate in cash.

H.B. 1245

S.B. 831

Prohibits gift certificates from expiring unless expiration date is clearly stated on gift certificate; makes violations subject to Consumer Protection Act.

**Texas**

H.B. 255

*Laid on table 5/2/05*

S.B. 446

*Signed by governor 5/17/05, Chapter 81*

Relates to the reduction in value of a stored value card; provides that the issuer of such card may impose or collect a periodic fee or other charge that causes the unredeemed balance of the card to decrease over time if the fee is reasonable, if not assessed until after

the first anniversary of the date the card was sold or issued, and is disclosed to the holder of the card.

**H.B. 1343**

Relates to the expiration or reduction in value of a gift certificate or gift card

**H.B. 1691**

Relates to the reduction in value of a gift card.

**S.B. 192**

Relates to the expiration of or a fee charged in relation to a gift certificate.

**Vermont****H.B. 198**

*Signed by governor 6/2/05, Act 39*

Proposes to limit expiration dates and prohibit fees on gift certificates, gift cards, and stored-value cards.

**Virginia****H.B. 2218**

*Signed by governor 3/20/05, Chapter 303*

**S.B. 1241**

*Signed by governor 3/20/05, Chapter 269*

Requires gift certificates issued by a merchant in Virginia to have permanently affixed to it either an expiration date for the certificate or electronic card or a telephone number or Internet address at which information about the certificate's expiration and any diminution in value over time may be obtained. A violation of the disclosure requirement is a prohibited practice under the Virginia Consumer Protection Act.

**Wisconsin****A.B. 583****S.B. 292**

Regulates the sale and redemption of gift certificates, gift cards, and similar items (gift obligations). Prohibits the following: (1) failing to honor a valid gift obligation; (2) selling a gift obligation that is subject to an expiration date; and (3) reducing the value of a gift obligation except for the sale price of goods or services provided to the bearer. Furthermore, when a gift obligation is redeemed and the resulting balance of the gift obligation is less than \$5, the gift obligation redeemer is required to refund the balance in cash, upon the request of the person redeeming the gift obligation. Also requires a merchant, upon presentation of a gift obligation, to disclose the date when the gift obligation was issued and the remaining balance.

**S.B. 392**

Regulates the sale of gift certificates, gift cards, or similar items (gift obligations). A seller of a gift obligation must conspicuously disclose to a purchaser any expiration date that applies to the gift obligation and the terms and amount of any service charge that apply to the gift obligation. The disclosure requirements do not apply to a gift obligation that is valid at more than one seller of goods or services.

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**2004 Legislation****Alaska****S.B. 231**

*Signed by governor 6/25/04, Chapter 90*

Defines gift certificates.

**Arizona****H.B. 2572**

Regulates the sale of gift certificates, including gift cards. Makes provisions for expiration dates, service fees and dormancy fees.

**California****A.B. 656**

*Chaptered by secretary of state 8/30/04, Chapter 319*

Existing law prohibits the sale of any gift certificate, as defined, that contains an expiration date or service fee, but creates an exception for a gift certificate with a provision that entitles the purchaser thereof to a full refund if the certificate is given to another person who fails to redeem the certificate within a specified time. This bill revises and recasts that exception to instead provide that a gift certificate may be issued if each contributor is provided with a full refund if certain conditions are met, including a clear disclosure in writing of the

time in which the recipient may redeem the certificate.

**A.B. 2090**

Effective January 1, 2004, existing law prohibits the sale of a gift certificate that imposes a service fee for dormancy. Existing law prescribes an exception to that prohibition if specified criteria are met, including, but not limited to, a requirement that the fee not exceed \$1 per month. This bill deletes that exception.

**Colorado**

**S.B. 160**

*Postponed indefinitely 2/10/04*

Prohibits a person or entity from selling a gift certificate or gift card containing an expiration date. Requires that a gift certificate or gift card be redeemable for its cash value and that it remain valid until it is redeemed or replaced. Creates an exemption for certain gift certificates and gift cards that have an expiration date printed on the front, in capital letters in at least 10-point type, and that: are distributed to a consumer pursuant to an awards, loyalty, or promotional program when nothing of value is exchanged for the gift certificate or gift card by the consumer; or are sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fund-raising purposes. Prohibits an issuer of a gift certificate or gift card from charging any fees in connection with the issue of the gift certificate or card. Makes a violation of the limitations regarding gift certificates and gift cards a deceptive trade practice.

**Connecticut**

**S.B. 93**

Prevents the state acquiring the value of unredeemed gift certificates by repealing the provision that presumes that a gift certificate that is not redeemed within three years is abandoned, resulting in its escheat to the state.

**S.B. 288**

Provides that gift certificates do not escheat to the state.

**Delaware**

**H.B. 351**

Defines gift cards and gift certificates, prohibits fees against the value of the card or certificate for inactivity, but exempts those certificates or cards which are given at no cost from application under this Act.

**Florida**

**H.B. 1053**

*Laid on table 4/14/04*

**S.B. 2570**

*Withdrawn from consideration 4/16/04*

Provides that it is unlawful for any person or entity to sell a gift certificate that contains an expiration date or a service fee; provides general requirements regarding gift certificates; provides for applicability and construction of the act; authorizes fee; provides definitions.

**Georgia**

**S.B. 443**

Relates to unfair or deceptive practices in consumer transactions, so as to create the Gift Card Integrity Act of 2004; prohibits the imposition of nonuse, handling, dormancy, or maintenance fee on gift cards and gift certificates issued by merchants or persons acting on behalf of merchants.

**S.B. 618**

Creates the Gift Card Integrity Act of 2004; provides definitions; prohibits the imposition of nonuse, handling, dormancy, activation, or maintenance fees on gift cards and gift certificates issued by merchants or persons acting on behalf of merchants; provides for related matters.

**Hawaii**

**H.B. 1736**

Prohibits gift certificate issuers from charging service fees, including but not limited to dormancy fees.

**H.B. 1996**

Clarifies that gift certificates shall be honored for their full face value for the two-year period after the date of issuance of the certificate.

**H.B. 2073**

Requires that gift certificates have no expiration date; provides that a fee of \$1 may be deducted from the value of a gift certificate every two years.

**H.B. 2143**

*Signed by governor 6/21/04, Act 136*

Expands the definition of gift certificate to reflect changes in retail industry technology; extends the minimum life of certificates to seven years; provides that consumers may obtain cash after utilizing 90 percent of the value of the certificate; prohibits service charges or dormancy fees; no longer requires issuers to report unclaimed amounts under the Unclaimed Property Act.

#### S.B. 2140

Prohibits the issuance of gift certificates with expiration dates, except for gift certificates issued as donations to nonprofit organizations that shall expire not less than two years from their date of issuance. Prohibits the imposition of fees, charges, or penalties for dormancy, service, abandoned or unclaimed property, escheat, or inactivity for unredeemed gift certificates.

#### **Illinois**

##### H.B. 4353

Creates the Gift Certificate Act. Provides that it is unlawful for any person or entity to sell a gift certificate to a purchaser that contains an expiration date or a service fee including, but not limited to, a service fee for dormancy. Provides that any gift certificate sold after January 1, 2005, is redeemable in cash for its cash value or subject to replacement with a new gift certificate at no cost to the purchaser or holder. Provides that a gift certificate sold without an expiration date is valid until redeemed or replaced. Makes exceptions to the prohibition of the service fee for dormancy. Exempts prepaid calling cards that are issued solely to provide an access number and authorization code for the prepaid calling service from the requirements of the Act.

##### H.B. 4614

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that no person shall sell or issue a gift certificate that is subject to an expiration date. Provides that no gift certificate or any agreement with respect to the gift certificate may contain language suggesting that an expiration date may apply. Provides that fees and penalties shall not be imposed for inactivity with respect to a gift certificate. Provides that the value of a gift certificate that is not redeemed within three years is presumed abandoned. Provides that any person who sells a gift certificate shall obtain the address of the owner of the gift certificate and maintain a record of such address. Provides that any person who sells a gift certificate subject to an expiration date shall be fined not more than \$500 per occurrence. Defines gift certificate.

##### H.B. 5916

Amends the Uniform Disposition of Unclaimed Property Act. Provides that the Act applies to gift certificates and gift cards that contain any type of charge or fee including but not limited to service charges, dormancy fees, account maintenance fees, cash-out fees, replacement card fees, and activation or reactivation charges, unless specified exceptions apply.

##### H.B. 6969

Creates the Gift Certificate Act. Provides that, beginning January 1, 2005, it shall be unlawful for any person or entity to sell a gift certificate containing an expiration date or a service fee for dormancy, except as specified in the Act. Provides that any gift certificate sold shall be redeemable in cash for its cash value or subject to replacement with a new gift certificate. Makes a gift certificate without an expiration date valid until redeemed or replaced. Exempts prepaid calling cards from the provisions of the Act.

##### S.B. 2901

*Signed by governor 8/17/04, Public Act 93-0945*

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that no person shall sell or issue a gift certificate that is subject to an expiration date. Provides that no gift certificate or any agreement with respect to the gift certificate may contain language suggesting that an expiration date may apply. Provides that fees and penalties shall not be imposed for inactivity with respect to a gift certificate. Provides that any person who sells a gift certificate subject to an expiration date shall be fined not more than \$500 per occurrence. Defines gift certificate.

#### **Iowa**

##### H.F. 2287

Prohibits sellers from selling gift certificates that contain an expiration date. Provides that gift certificates sold with an expiration date shall be redeemable in cash or may be replaced at no cost to the buyer or holder. If the gift certificate is distributed as an award or pursuant to a loyalty or promotional program or if the certificate is sold below face value for fundraising purposes or if the gift certificate is one issued for a food product, the certificate may contain an expiration date if the expiration date is printed in capital letters in at least 10-point font on the front of the gift certificate. Amends the definition of a gift certificate to include electronic gift cards.

##### H.F. 2306

*Signed by governor 3/18/04*

Amends the definition of "gift certificate" to include electronic gift cards with regard to disposition of unclaimed property. Prohibits an issuer of a gift card from deducting a fee from a gift card that is not presented for redemption in a timely manner where no valid contract exists to deduct the fee.

##### S.F. 2231

*Withdrawn from further consideration 3/15/04*

Amends the definition of "gift certificate" to include electronic gift cards with regard to disposition of unclaimed property. Prohibits an issuer of a gift card from deducting a fee from a gift card that is not presented for redemption in a timely manner where no valid contract exists to deduct the fee.

**Louisiana****H.B. 1509**

Provides restrictions on gift certificates for which the issuer has received payment from the purchaser.

**S.B. 295**

*Signed by governor 5/28/04, Act 69*

Prohibits any person or entity to sell a gift certificate which contains an expiration date or which includes any service fee. A gift certificate sold without an expiration date is valid until redeemed or replaced. Exempts the following gift certificates from the provisions of proposed law, provided the expiration date appears on the front of the gift certificate in 10-point type: (1) Gift certificates distributed to a consumer pursuant to an awards, loyalty, or promotional program when no money or other thing of value has been given in exchange for the gift certificate by the consumer. (2) Gift certificates that are sold below face value to nonprofit and charitable organizations for fundraising purposes as long as the expiration date on those gift certificates is no more than 30 days after the date of the sale. Subjects the violator to any and all actions and penalties associated with the Unfair Trade Practices and Consumer Protection Law.

**Maryland****H.B. 43**

Prohibits a prepaid gift certificate from expiring before its redemption; provides specified exceptions to the prohibition; and provides for the application of the Act.

**S.B. 173**

*Passed Senate 3/12/04*

Prohibits a gift certificate or gift card from expiring before its use; and provides for the construction and application of the Act.

**Massachusetts****H.B. 32**

Relates to expiration dates for gift certificates.

**H.B. 3294**

*Ought not to pass report adopted 2/10/04*

Relates to the issuance and redemption of gift certificates.

**H.B. 4524**

*Link not available*

Relates to credit-backed or bank-issued gift cards.

**H.B. 4770**

Relates to administrative fees on gift certificates.

**S.B. 2204**

Prohibits excessive fees on gift certificates and gift cards.

**Michigan****H.B. 4053**

Prohibits a retailer from failing to honor a valid gift certificate when presented to the issuer by a consumer in payment for goods or services. Defines the term "gift certificate" to mean a written certificate or electronic card memorializing a promise to provide goods and services in a specified amount or of equal value to the bearer of the certificate or card, given by a retailer in exchange for payment. The act can be enforced by the attorney general, by local prosecutors, and through private legal actions, and the act provides for the imposition of temporary and permanent injunctions, the assessing of civil penalties, and the recovery of damages and attorneys' fees.

**H.B. 4430**

Excludes gift certificates, electronic gift cards, and credit memos from unclaimed property.

**H.B. 5822**

Prohibits a retailer from failing to honor gift certificates.

**Mississippi****H.B. 841**

*Died in committee 3/9/04*

Prohibits the sales of gift certificates with expiration dates, service fees or dormancy fees; allows cash redemption or replacement of gift

certificates; provides exceptions.

**S.B. 2877**

*Died in committee 3/9/04*

Makes unlawful the sale of a gift certificate that contains an expiration date or a service fee, with certain exceptions; provides for application of this section; provides that violations of this act are subject to civil and criminal penalties under the consumer protection statutes.

**Missouri**

**H.B. 1411**

Provides standards for any entity doing business in this state that issues gift certificates or offers promotional premiums, coupons, or sales agreements. Gift certificates must have an expiration date of at least one year from the date of purchase and must allow for a cash redemption of any amount not redeemed within one year of the expiration date. Promotional premiums, coupons, or sales agreements must have the expiration date printed on them and must allow for a cash redemption of any amount not redeemed within two years of the expiration date. Businesses offering gift certificates, promotional premiums, coupons, or sales agreements will be prohibited from imposing a maintenance fee or surcharge if the item is not redeemed within a specific time or if a cash refund is issued.

**Nebraska**

**L.B. 1222**

Renders void an expiration date of three years or less from the date of purchase on a gift certificate sold for money or other thing of value. A gift certificate containing such an expiration date would be redeemable in cash for its cash value or subject to replacement with a new gift certificate at no cost to the purchaser or holder within such time period. This provision would not apply to the following gift certificates if the expiration date appears in capital letters in at least 10-point type on the front of the gift certificate: 1) A gift certificate distributed by the issuer to a consumer pursuant to an award or a promotional program without any money or thing of value being given in exchange for the gift certificate by the consumer; 2) A gift certificate sold below face value at a volume discount to an employer or to a nonprofit and charitable organization for fundraising purposes, if the expiration date on the gift certificate is 30 days or more after the date of sale; 3) A gift certificate for a food product.

**New Hampshire**

**S.B. 461**

*Signed by governor 5/11/04, Chapter 228*

Removes the requirement that gift certificates of \$100 or more shall expire when escheated to the state as abandoned property.

**New Jersey**

**A.B. 1079**

Provides that a gift certificate issued by a retail merchandise establishment shall be redeemable at full face value in perpetuity.

**A.B. 1959**

Under the provisions of C.56:8-110, a gift certificate issued by a retail merchandise establishment remains valid until the certificate is redeemed, unless conditions and limitations on redemption are disclosed to the purchaser and are conspicuously printed on the certificate. This bill provides that such gift certificates shall be valid and redeemable at full face value until redeemed.

**A.B. 3017**

Provides that gift certificates shall be valid and redeemable at full face value for a period of 24 months following the date of purchase of a gift certificate. Reimbursements and exchanges for a gift certificate shall take place no later than 24 months from the date of purchase of the certificate. Mandates that the retail merchandise establishment issuing a gift certificate shall inform the purchaser on the gift certificate of the 24-month expiration date of the validity of that certificate. Requires a retail merchandise establishment to maintain a record of the transaction for the issuance of each such certificate for not less than 24 months following the date of sale, including the full face value of the gift certificate, and an identification number assigned by the retail merchandise establishment to the gift certificate. Stipulates that a retail merchandise establishment issuing a gift certificate with a full face value of more than \$50 shall issue to the purchaser of the certificate a written and numbered receipt indicating that sale. Another provision of the bill is that a retail merchandise establishment shall issue a new gift certificate for any unused portion of a redeemed gift certificate, which shall be redeemable for up to 24 months from the date of purchase of the original gift certificate, except that where the balance due to the consumer is less than \$5, the retail merchandise establishment shall provide cash to the consumer for the unused portion.

**New York**

**A.B. 3479**

**S.B. 5841**

Provides that gift certificates and store credits shall not contain expiration dates, except in limited circumstances where they are issued for promotional purposes without value being given by the consumer; makes certificates or credit with an expiration date redeemable in cash or replaceable by a certificate or credit without an expiration date.

**A.B. 5113**

Prohibits the sale or issuance of gift certificates to a consumer that contain an expiration date; not applicable to gift certificates issued for promotional purposes.

A.B. 9317

Prohibits additional fees on gift certificates or gift cards; shall not apply to gift certificates or gift cards distributed to a consumer for promotional purposes.

A.B. 9329

S.B. 5842

Requires that gift certificates, gift cards, or store credits have no expiration or diminution in value over time.

A.B. 9331

S.B. 5896

Defines the term "gift certificate" and prohibits the imposition of retroactive or reactivation fees; requires notice of terms and conditions to be given at point of sale; provides for enforcement by the attorney general and a civil fine of up to \$1000 for violations,

A.B. 9386

S.B. 5994

Prohibits the sale of gift certificates which contain an expiration date; prohibits the imposition of a surcharge on gift certificates, including a service fee for dormancy; makes enforcement provisions; and provides limited exceptions.

A.B. 9405

Prohibits reduction of value of gift certificate at any time during its term from its value at time of original issue.

A.B. 9439

Relates to the sale and use of gift certificates; requires that gift certificates last for at least seven years; requires that the date of issuance and the date of expiration of a gift certificate be either printed on the gift certificate, printed on a customer's receipt, or available through an Internet and toll-free telephone service.

A.B. 9752

Prohibits the sale of gift certificates and gift cards that diminish in value due to dormancy; and prohibits surcharges and fees on gift certificates and gift cards.

A.B. 10333

*Substituted 6/16/04*

S.B. 6612

*Signed by governor 7/20/04, Chapter 171*

Provides that no retroactive fees shall be assessed against a gift certificate; also provides that no monthly service fees may be assessed against the balance of a gift certificate prior to the thirteenth month of dormancy.

A.B. 10334

*Substituted 6/16/04*

S.B. 6611

*Signed by governor 7/20/04, Chapter 170*

Requires the disclosure of the terms and conditions of a gift certificate to the purchaser at the time of purchase; defines "gift certificate."

A.B. 11789

*Substituted 8/11/04*

S.B. 7708

*Signed by governor 9/20/04, Chapter 507*

Provides required disclosures and allowable fees assessed against unexpired gift certificates.

S.B. 5860

Establishes gift certificates and gift cards shall not contain service fees, including, but not limited to, a service fee for dormancy; establishes certain times a service fee for dormancy may be applied to a gift card; establishes gift certificates and gift cards shall be valid until presented in exchange for merchandise or service.

S.B. 6218

Provides that gift certificates, gift cards, and store credits shall have no expiration and prohibits the imposition of fees or charges thereon.

S.B. 7206

Provides that the value of a gift certificate may not be reduced by deduction of any service or dormancy charge, fee or any other such amount; defines "gift certificate" as a tangible or electronic record evidencing an issuer's agreement to provide goods or services to the

value shown in the record; provides there shall not be an expiration period or date.

**Ohio****S.B. 13**

Prohibits a gift certificate having an expiration date.

**Pennsylvania****H.B. 216**

Prohibits the sale of gift certificates with expiration dates.

**H.B. 2139**

Prohibits the sale or issuance of certain gift certificates with expiration dates and the imposition of transaction, service or convenience fees; provides the attorney general certain powers and duties.

**H.B. 2355**

Prohibits the sale or issuance of certain gift certificates or gift cards with expiration dates, the imposition of transaction, service or convenience fees and the imposition of dormancy fees; provides the attorney general certain powers and duties; and repeals inconsistent statutes.

**S.B. 1098**

Prohibits the sale or issuance of certain gift certificates with expiration dates and the imposition of transaction, service or convenience fees; provides the attorney general certain powers and duties.

**Rhode Island****H.B. 7081**

Prevents any business, from placing an expiration date on a gift certificate sold in this state.

**H.B. 7090**

Makes it unlawful to charge a service fee for redeeming a gift certificate.

**H.B. 7133**

Prohibits any person, firm or corporation that sells gift certificates from setting a time limit for the redemption of a gift certificate or from placing an expiration date on the gift certificate.

**H.B. 7424**

*Became effective without governor's signature 7/9/04, Chapter 548*

Places more specific record keeping requirements on the issuance of gift certificates and makes the redemption period limited.

**H.B. 8406**

Places more stringent record keeping requirements on the issuance of gift certificates, would broaden the definition of gift certificates, would prohibit any business from charging an additional fee and would prohibit any business from limiting the time within which a gift certificate may be redeemed.

**H.B. 8713**

*Became effective without governor's signature 8/11/04, Chapter 604*

Expands the definition of a gift certificate, prohibits the issuer from charging additional fees on the gift certificate, and allows cards used for prepaid wireless telephone service to be exempt until January 1, 2006.

**S.B. 2076**

Prevents any business, from placing an expiration date on a gift certificate sold in this state.

**S.B. 2209**

Prevents any business from placing an expiration date on a gift certificate sold in this state.

**S.B. 2407**

*Became effective without governor's signature 7/9/04, Chapter 541*

Expands the definition of a gift certificate and prohibit the issuer from charging additional fees on the gift certificate.

**S.B. 2450**

Prevents any business, from placing an expiration date on a gift certificate sold in this state.

**South Carolina****H.B. 4688**

*Signed by governor 11/4/04*

Provides that a person may not issue or sell a gift certificate which provides that the certificate expires before the first anniversary of the

date on which the certificate is issued or sold, provides exceptions, and provides that a condition relating to the use of a gift certificate must be stated clearly on the certificate if the condition provides that the certificate decreases in value over a period of time or that a fee is charged against the balance of the certificate after a certain period of time.

**Utah****H.B. 261***Enacting clause struck 3/3/04*

Prohibits a gift certificate from containing an expiration date within five years after the gift certificate is issued.

**Virginia****H.B. 256***Failed to pass House 2/11/04*

Requires a supplier that sells gift cards or gift certificates to consumers to provide a disclosure of its policies related thereto to consumers by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer. The disclosure shall include the conditions, charges, or fees relating to the gift card or gift certificate, including but not limited to any expiration date, diminution in value over time, or up-front fees. Failure to provide the disclosure is a violation of the Virginia Consumer Protection Act.

**Washington****H.B. 3036***Signed by governor 3/26/04, Chapter 168***S.B. 6675**

Prohibits issuers of gift certificates and stored value cards, with a few exceptions, from including inactivity charges or expiration dates on the certificates. Exempts gift certificates and stored value cards from the Uniform Unclaimed Property Act.

**S.B. 6482**

Prohibits gift certificates, including gift cards and stored value cards, from having an expiration date, or any fee, service charge or inactivity charge. If a gift certificate is used, and there is unused value left, the issuer must make the remaining amount available to the consumer, in cash or gift certificate. If less than \$5 is left, the remaining value must be redeemable in cash. A gift certificate may have an expiration date, if it shows the date in large capital letters on the front and if it is part of a promotional program, without money being given in exchange, or if it is part of a charitable fundraiser or issued for a "food product."

**Wisconsin****S.B. 459***Failed to pass pursuant to Senate Joint Resolution 1 3/31/04*

Regulates the sale of gift certificates, gift cards, or similar items (gift obligation) if the gift obligation has an expiration date or is subject to a service charge. Any expiration date, and the amount and terms of any service charge, must be disclosed conspicuously in writing to the purchaser, must be orally disclosed to the purchaser, and must be written on the gift obligation. Requires the Department of Agriculture, Trade and Consumer Protection (DATCP) to promulgate a rule defining the term "conspicuous." The rules must require that expiration dates be written in at least 10-point type size. Requires DATCP to promulgate a rule setting forth the service charge terms that must be disclosed. Authorizes DATCP to bring an action to enjoin persons from these restrictions. Persons who violate these laws are also subject to forfeitures (civil penalties) and criminal penalties. In addition, the bill does not preclude these violations from being prosecuted as unfair methods of competition, unfair trade practices, or fraudulent representations under existing laws. Allows an individual to bring a civil action for violation of these laws.

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**2003 Legislation****California****A.B. 1092***Chaptered by secretary of state 7/24/03, Chapter 116*

Existing law prohibits the sale of any gift certificate that contains an expiration date, except as specified. Prohibits the sale of any gift certificate that contains a service fee, except as specified. For the purposes of these provisions, the bill would clarify that "gift certificate" includes gift cards, except for certain cards that may be used with multiple sellers of goods or services, as specified. Provides that the provision above does not prevent an issuer of a gift certificate from including on any gift certificate that the purchaser is entitled to a full refund of the amount paid under specified circumstances, and would make a conforming change to a related provision.

**Connecticut****H.B. 5328**

Prohibits any person from (1) issuing gift certificates that contain an expiration date or (2) imposing dormancy, abandoned or unclaimed

property, escheat, inactivity, or similar charges, fees, or penalties for not using the certificates. Specifies that (1) a gift certificate is valid until redeemed or replaced and (2) an unredeemed gift certificate may not be presumed abandoned as it would normally be under the Connecticut's escheats law. Imposes a \$500 fine per occurrence against any person who violates it and deems any failure to comply an unfair or deceptive trade practice.

**H.B. 5330**

*Failed Joint Favorable deadline 3/25/03*

Prohibits expiration dates and dormancy fees on gift certificates and gift cards.

**H.B. 5814**

Allows consumers to redeem a retail gift certificate for a minimum of three years from the date it is issued.

**H.B. 6082**

Prohibits expiration dates on gift certificates and gifts cards.

**H.B. 6802, Special Session**

*Signed by governor 8/16/03, Public Act 03-1*

Defines gift certificates and provides that no gift certificate shall be sold or issued with an expiration date or contain dormancy or inactivity fees. Provides that gift certificates are still subject to escheat. Requires any one who sells or issues a gift certificate to obtain the address of the owner of the gift certificate.

**S.B. 121**

Revises statutory provisions concerning unclaimed property and escheats by shortening the period for abandonment for certain types of property, specifically adding other types of property that is subject to abandonment and escheat to the state, prohibits expiration dates on gift certificates, prohibits dormancy fees and enhances the accounting and auditing authority of the treasurer.

**S.B. 802**

Provides clear notice to consumers of the expiration date of a gift card or gift certificate.

**S.B. 803**

Prohibits expiration dates on restaurant gift certificates.

**S.B. 805**

*Failed Joint Favorable deadline 3/25/03*

Requires any person or entity that sells gift certificates to transfer the value of any gift certificate that is not redeemed within two years of the date of purchase to the state treasurer.

**S.B. 881**

Provides clear notice to consumers of the expiration date of gift certificates and gift cards.

**Illinois****H.B. 2914**

Amends the Uniform Disposition of Unclaimed Property Act. Provides that unclaimed property payable or distributable in the course of a demutualization of an insurance company is presumed abandoned five years after the earlier of the date of last contact with the policyholder or the date the property became payable or distributable. Provides for an exemption from the Act for gift certificates and gift cards that contain an expiration date or expiration period issued by a nonprofit organization as defined under Section 501(c)(3) of the Internal Revenue Code. Provides that a holder or any party with information about the owner is prohibited from charging a fee or service charge to an owner in order to prevent abandonment from being presumed.

**S.B. 1096**

Amends the Uniform Disposition of Unclaimed Property Act. Provides that unclaimed property payable or distributable in the course of a demutualization of an insurance company is presumed abandoned five years after the earlier of the date of last contact with the policyholder or the date the property became payable or distributable. Provides for an exemption from the Act for gift certificates and gift cards that contain an expiration date or expiration period issued by a nonprofit organization as defined under Section 501(c)(3) of the Internal Revenue Code. Provides that a holder or any party with information about the owner is prohibited from charging a fee or service charge to an owner in order to prevent abandonment from being presumed.

**Indiana****S.B. 26**

*Signed by governor 4/30/03, Public Law 107*

Provides that the unclaimed property act does not apply to gift certificates or gift cards.

**Maine****L.D. 1479**

Adds "face value" to the abandoned property laws definition section to resolve issues of interpretation. Defines "gift obligation." Clarifies the abandonment period of a gift obligation and that the amount abandoned is the face value of the gift obligation. Prohibits the imposition of a fee or charge on a gift obligation unless the fee or charge is contained in a written agreement at the time of purchase of the gift obligation.

**Maryland**H.B. 710S.B. 375

Prohibits a gift certificate from expiring before redemption for the complete face value of the gift certificate; defines the term "gift certificate;" provides for the prospective application of the Act.

**Massachusetts**H.B. 32

Relates to expiration dates for gift certificates.

H.B. 3294

Relates to the issuance and redemption of gift certificates.

H.B. 3729

*Signed by governor 5/30/03, Chapter 18*

Relates to expiration dates for gift certificates.

S.B. 1969

*Signed by governor 3/31/03, Chapter 8*

Relates to the expiration dates of gift certificates and certain other mediums of exchange.

**Michigan**H.B. 4053

Prohibits a retailer from failing to honor a valid gift certificate when presented to the issuer by a consumer in payment for goods or services. Defines the term "gift certificate" to mean a written certificate or electronic card memorializing a promise to provide goods and services in a specified amount or of equal value to the bearer of the certificate or card, given by a retailer in exchange for payment. The act can be enforced by the attorney general, by local prosecutors, and through private legal actions, and the act provides for the imposition of temporary and permanent injunctions, the assessing of civil penalties, and the recovery of damages and attorneys' fees.

H.B. 4430

Excludes gift certificates, electronic gift cards, and credit memos from unclaimed property.

**New Hampshire**H.B. 259

*Signed by governor 6/30/03, Chapter 193*

Defines and regulates the use of gift certificates under the consumer protection act. Establishes a study committee relative to the regulation of gift certificates.

**New Jersey**A.B. 3329

Under the provisions of P.L.2002, c.14 (C.56:8-110) a gift certificate issued by a retail merchandise establishment remains valid until the certificate is redeemed, unless conditions and limitations on redemption are disclosed to the purchaser and are conspicuously printed on the certificate. Provides that such gift certificate shall be valid and redeemable at full face value until the certificate is redeemed, unless conditions and limitations on redemption are disclosed to the purchaser and are conspicuously printed on the certificate.

**New York**A.B. 3479S.B. 5841

Provides that gift certificates and store credits shall not contain expiration dates, except in limited circumstances where they are issued for promotional purposes without value being given by the consumer; makes certificates or credit with an expiration date redeemable in cash or replaceable by a certificate or credit without an expiration date.

A.B. 5113

Prohibits the sale of issuance of gift certificates to a consumer that contain an expiration date; not applicable to gift certificates issued for promotional purposes.

**Ohio**S.B. 13

Prohibits a gift certificate having an expiration date.

**Pennsylvania****H.B. 216**

Prohibits the sale of gift certificates with expiration dates.

**H.B. 2139**

Prohibits the sale or issuance of certain gift certificates with expiration dates and the imposition of transaction, service or convenience fees; provides the attorney general certain powers and duties.

**Rhode Island****H.B. 5065**

Prevents any business, from placing an expiration date on a gift certificate sold in this state.

**H.B. 5086**

Prohibits administrative maintenance fees on gift cards.

**H.B. 5217**

Regulates the issuance of merchandise credit slips in the same manner as the sales of gift certificates by requiring that the merchant maintain certain records regarding their issuance and prohibits an expiration date for the use of the merchandise credit slip.

**H.B. 5279**

Prohibits any person, firm or corporation that sells gift certificates from setting a time limit for the redemption of a gift certificate or from placing an expiration date on the gift certificate.

**H.B. 5910**

Prevents any business, from placing an expiration date on a gift certificate sold in this state.

**S.B. 976**

Prevents any business, from placing an expiration date on a gift certificate sold in this state.

**Tennessee****H.B. 1551****S.B. 1581**

*Signed by governor 5/8/03, Public Chapter 78*

Decreases the time period an issuer must wait to presume gift certificate is abandoned property from more than five years to earlier of two years or certificate's expiration date; prevents gift certificate issued after December 31, 1998, from being abandoned property if issuer does not impose dormancy charge and certificate expiration date is not effective or applicable.

**Texas****H.B. 650**

Prohibits the expiration of most gift certificates and gift cards before the second anniversary of the date on which the card was issued. Requires businesses and card issuers to disclose certain types of information on or with a gift certificate or gift card.

**H.B. 1588**

Relates to the disclosure of the expiration or reduction in value of a gift certificate.

**Utah****H.B. 207**

*Enacting clause struck 3/5/03*

Modifies the Utah Consumer Sales Practices Act by prohibiting gift certificates that contain an expiration date within five years after the gift certificate is issued.

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**2002 Legislation****California****A.B. 2473**

*Chaptered by secretary of state 9/27/02, Chapter 997*

Provides that a gift certificate constitutes value held in trust by the issuer of the gift certificate on behalf of the beneficiary of the gift certificate, and that the value represented by the gift certificate belongs to the beneficiary, or his or her legal representative to the extent provided by law, and not to the issuer. Requires the issuer of a gift certificate who is in bankruptcy to continue to honor a gift certificate issued prior to the date of the bankruptcy filing. Prohibits the terms of a gift certificate from making its redemption or other use invalid in the event of a bankruptcy. Specifies that it does not alter the terms of a gift certificate or require an issuer to perform

specified acts.

#### **Illinois**

##### H.B. 3557

Amends the Uniform Disposition of Unclaimed Property Act. Provides for an exemption from this Act for gift certificates or gift cards that contain an expiration date or expiration period issued by a nonprofit organization as defined under Section 501(c)(3) of the Internal Revenue Code. Provides that a holder or any party with information about the owner is prohibited from charging a fee or service charge to an owner in order to prevent abandonment from being presumed. Provides for confidentiality of information provided to the state treasurer under the Act. Changes the notice requirements to owners. Provides that the proceeds in excess of \$2,500,000 from the sale of abandoned property shall be deposited into the State Pensions Fund (instead of into a separate trust fund for the payment of claims). Requires any person or company charging a fee for discovering presumptively abandoned property to be a licensed private detective.

#### **Iowa**

##### H.F. 2497

*Signed by governor 4/1/02*

Prohibits an issuer of a gift certificate from deducting from the face value of the gift certificate any charge imposed due to the failure of the owner of the gift certificate to present the gift certificate in a timely manner, unless a valid and enforceable written contract exists between the issuer and the owner of the gift certificate pursuant to which the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel them. For purposes of this subsection, "gift certificate" means a merchandise certificate conspicuously designated as a gift certificate, and generally purchased by a buyer for use by a person other than the buyer.

#### **Kansas**

##### H.B. 2674

Prohibits expiration dates on gift certificates, with two exceptions. The first exception would be gift certificates distributed by the issuer without anything of value being given in exchange by the consumer. The second would be gift certificates sold below face value at a volume discount, if the expiration date is not more than 30 days after the date of sale.

#### **Massachusetts**

##### H.B. 216

*Signed by acting governor 1/1/03, Chapter 510*

Relates to gift certificates; provides for truth in advertising and makes provisions regarding expiration dates.

##### S.B. 2413

*Link unavailable*

Relates to gift certificates.

#### **Michigan**

##### H.B. 6173

Requires businesses that issue gift certificates to honor them for one year from the date of purchase, requires transfer in the event of transfer of ownership, and prohibits the sale of gift certificates with the knowledge of pending business closure.

##### H.B. 6230

Prohibits retailers from failing to honor gift certificates.

#### **Nebraska**

##### L.B. 1065

*Link unavailable*

Prohibits the issuance of gift certificates as prescribed and provides a penalty.

#### **New Jersey**

##### A.B. 555

*Signed by governor 4/9/02, Chapter 14*

Supplements the Consumer Fraud Act, P.L.1960, c.39 (C.56:8-1 et seq.), to require that a gift certificate issued by a retail merchandise establishment remain valid until the certificate is redeemed, unless conditions and limitations on redemption are disclosed to the purchaser and are conspicuously printed on the certificate. A "gift certificate" is defined in the bill as a written promise given in exchange for payment to provide merchandise in a specified amount or of equal value to the bearer of the certificate. Authorizes the director of the Division of Consumer Affairs to promulgate all necessary rules and regulations. Violation of the provisions of this bill is a violation of the consumer fraud act and violators are subject to penalties, which may include a fine of not more than \$10,000 for a first violation and not more than \$20,000 for any subsequent violation. Authorizes the attorney general to seek and obtain in a summary action an injunction prohibiting any violator from continuing to engage in such unlawful practice.

#### **New York**

##### A.B. 11241

##### S.B. 6463

**Links unavailable**

Provides that gift certificates and store credits shall not contain expiration dates, except in limited circumstances where they are issued for promotional purposes without value being given by the consumer; makes certificates or credit with an expiration date redeemable in cash or replaceable by a certificate or credit without an expiration date.

**S.B. 1090****Link unavailable**

Provides that gift certificates and store credits shall not contain expiration dates, except in limited circumstances where they are issued for promotional purposes without value being given by the consumer; makes certificates or credit with an expiration date redeemable in cash or replaceable by a certificate or credit without an expiration date.

**Rhode Island****H.B. 6633**

Prohibits any person, firm, or corporation who offers or issues a gift certificate from placing an expiration date upon any gift certificate.

**H.B. 6836**

Prohibits any person, firm or corporation who offers or issues a gift certificate from placing an expiration date upon any gift certificate.

**S.B. 2702**

Provides that restaurants issuing gift certificates may provide expiration dates on gift certificates provided the date is not less than two years from the date of purchase.

**Tennessee****H.B. 2366****S.B. 2313**

Prohibits the sale of gift certificates containing expiration dates; provides that any certificate sold after July 1, 2002, is redeemable for cash value or subject to replacement; excludes certificates issued as promotional awards and certificates sold below face value to employers and/or to charitable organizations for fundraising.

**H.B. 2401****S.B. 2068**

Prevents expiration in less than 12 months of gift certificates with value of more than \$100.

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**2001 Legislation****Illinois****S.B. 76**

*Signed by governor 8/23/01, Public Act 92-0487*

Amends the Uniform Disposition of Unclaimed Property Act. Provides that the Act applies to a gift certificate or gift card only if the gift certificate or gift card contains an expiration date or expiration period and if specified exceptions do not apply.

**New Jersey****A.B. 1272**

*Combined with A.B. 2277 3/1/01*

Requires a gift certificate issued by a retail mercantile or service establishment to be valid until the gift certificate is redeemed unless the conditions and limitations of the gift certificate are fully disclosed to the purchaser and are conspicuously printed on the gift certificate. As defined in this bill, a "gift certificate" is a written promise given in exchange for payment to provide merchandise or service in a specific amount or of equal value to the bearer of the certificate. Provides that a retail mercantile or service establishment issuing a gift certificate shall maintain a record of the transaction for the issuance of each such certificate for not less than 12 months following the date of purchase of the gift certificate.

**A.B. 2277**

Requires a gift certificate that is issued to be valid until redeemed by the bearer. Supplementing the consumer fraud law, P.L.1960, c.39 (C.56:8-1 et seq.), defines gift certificate as a written promise given in exchange for payment to provide goods or services in a specific amount or of equal value to the bearer of the certificate. By supplementing the consumer fraud law, the bill adopts that law's definition of "merchandise," which includes both goods and services. Provides that any person issuing a gift certificate shall maintain a record of the transaction for the issuance of each such certificate until it is redeemed. Violators are subject to the penalties set forth in the consumer fraud law. These penalties may include a fine of no more than \$7,500 for a first offense and no more than \$15,000 for any subsequent offense. In addition, the attorney general is authorized to seek and obtain in a summary action an injunction prohibiting any violator from continuing to engage in an unlawful practice.

**New York**

A.B. 4432

*Link unavailable*

Provides that gift certificates and store credits shall not contain expiration dates, except in limited circumstances where they are issued for promotional purposes without value being given by the consumer; makes certificates or credit with an expiration date redeemable in cash or replaceable by a certificate or credit without an expiration date.

A.B. 7639

*Link unavailable*

Prohibits the sale or issuance of gift certificates to a consumer that contain an expiration date; makes related provisions not applicable to gift certificates issued for promotional purposes.

S.B. 2454

*Link unavailable*

Prohibits all gift certificates or store credits which are paid for in full or at face value at the time of issuance from containing an expiration date.

**Oklahoma**

H.B. 1074

*Signed by governor 5/24/01**Link unavailable*

Relates to consumer protection; makes unlawful certain unauthorized charges for Internet services or insurance products, refusal to honor gift certificates and warranties; prohibits knowingly adding unauthorized billing charges.

**Pennsylvania**

H.B. 642

Prohibits the sale of gift certificates with expiration dates.

**Rhode Island**

H.B. 5385

Entitles holders of gift certificates to receive the face value of the certificate in cash or merchandise from licensees holding closing out sales or going out of business sales.

H.B. 5762

Prohibits expiration dates on gift certificates.

**South Carolina**

H.B. 3657

*Signed by governor 5/29/01, Act 43*

Relates to definitions in the Uniform Unclaimed Property Act, so as to delete gift certificates from the definition of "intangible property"; amends §27-18-150, relating to gift certificates and credit memos being presumed abandoned when not claimed within five years, so as to remove gift certificates from this presumption of being abandoned; adds §27-18-175 so as to provide that the Uniform Unclaimed Property Act does not apply to forfeited reservation deposits; and provides that this act applies to gift certificates issued after June 30, 1996, or gift certificates that have not been reported as abandoned before July 1, 2001.

**Tennessee**

H.B. 1577

S.B. 178

Exempts gift certificates, gift cards, gift checks, and in-store merchandise credits from being deemed abandoned or unclaimed property.

**Virginia**

S.B. 1069

*Signed by governor 3/13/01, Chapter 131*

Adds gift certificates to the statute making the obtaining of money or other property by false pretenses with the intent to defraud larceny and a Class 4 felony.

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**2000 Legislation****Connecticut**

S.B. 319

Prohibits expiration dates on gift certificates so that gift certificates are treated more like cash.

**Illinois****S.B. 1191**

Amends the State Treasurer Act and the Uniform Disposition of Unclaimed Property Act to transfer the administration of the Uniform Disposition of Unclaimed Property Act from the Department of Financial Institutions to the state treasurer. Amends the Financial Institutions Code, the Illinois Banking Act, the Illinois Credit Union Act, the Currency Exchange Act, the Corporate Fiduciary Act, the Illinois Insurance Code, the Probate Act of 1975, the Business Corporation Act of 1983, and the General Not For Profit Corporation Act of 1986 to make corresponding changes.

**New York****S.B. 7183***Link unavailable*

Provides that gift certificates and store credits shall not contain expiration dates, except in limited circumstances where they are issued for promotion purposes without value being given by the consumer; makes certificates or credit with an expiration date redeemable in cash or replaceable by a certificate or credit without an expiration date.

**Pennsylvania****H.B. 2526**

Prohibits the sale of gift certificates with expiration dates.

**Rhode Island****H.B. 7602**

Prohibits expiration dates on gift certificates.

**S.B. 2035**

Prohibits sellers of gift certificates with a value exceeding \$50 from limiting the time for redemption of a gift certificate of monetary value.

**S.B. 2261**

Prohibits expiration dates on all gift certificates.

**Virginia****S.B. 676**

*Signed by governor 4/8/00, Chapter 733*

Exempts promotional incentives, property valued at less than \$100, gift certificates, and credit balances payable to a business association from the reporting requirement of the Uniform Disposition of Unclaimed Property Act. An action or proceeding may not be maintained by the administrator more than five years after the holder identified the property on a filed report, filed a report in which the holder should have identified the property, or filed a report giving the administrator reasonable notice of a dispute regarding the property, except that the period of limitation is extended to 10 years in the case of a materially false report or failure to file a report. The period that a holder is required to retain records is five years if a report is filed or 10 years if no report is filed. The state treasurer is prohibited from entering into contingency fee contracts, or permitting statistical estimation without the consent of the holder, if the holder is located in Virginia. The civil penalties for willful failure to comply with the Act are increased.

**Visitor counts for this page.**

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Denver Office: Tel: 303-364-7700 | Fax: 303-364-7800 | 7700 East First Place | Denver, CO 80230 | Map

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# NEWS RELEASE

Comptroller of the Currency  
Administrator of National Banks

NR 2006-84

FOR IMMEDIATE RELEASE  
August 14, 2006

Contact: Robert M. Garsson  
(202) 874-4294

## OCC Issues Guidance on Gift Cards

WASHINGTON – The Office of the Comptroller of the Currency today issued guidance on disclosure and marketing issues associated with gift cards. The guidance focuses on the need for national banks that issue gift cards to do so in a manner in which both purchasers and recipients are fully informed of the product's terms and conditions.

"The gift card market is growing rapidly, and the terms and conditions of various cards can vary widely," said Comptroller of the Currency John C. Dugan. "It's very important that national banks engaged in this business adopt robust disclosure policies so that consumers understand what they are getting when they buy or receive a gift card."

Gift cards present special challenges because disclosures to a purchaser may not be adequate for a gift card recipient. The OCC expects national banks that issue gift cards not only to inform purchasers about material terms and conditions, but to take appropriate steps so that critical information is likely to be available to recipients as well.

Basic information that is most essential to a gift card recipient's decisions about when and how to use the card should be provided on the gift card itself, or on a sticker or tape affixed to the gift card. Disclosures should generally tell consumers:

- The expiration date of the card (which should appear on the front of the card);
- The amount or the existence of any monthly maintenance, dormancy, usage or similar fees;
- How to obtain additional information about their cards or other customer service (for example, by providing a toll free number or website address).

In addition, since the user of the gift card is generally not the person who purchased the product, issuers should provide information for card recipients and encourage purchasers to pass it on. These disclosures could be carried in promotional packaging or inserted into an accompanying sleeve and include such information as the name of the issuing bank, any fees that may apply and what to do if the card is lost or stolen.

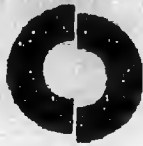
The OCC's new guidance also advises national banks to avoid practices that could be misleading to consumers. For example, issuers should not advertise a gift card with "no

expiration date" if monthly service or maintenance fees, dormancy fees or similar charges can consume the card balance. Similarly, if fees may consume the card balance before the stated expiration date, disclosures related to that expiration date should explain that possibility. Issuers should also avoid describing gift cards as if they are gift certificates or other payment instruments more familiar to consumers, or as products that carry federal deposit insurance.

The full text of the guidance is available on the news release page of the OCC's web site.

###

The Office of the Comptroller of the Currency was created by Congress to charter national banks, to oversee a nationwide system of banking institutions, and to assure that national banks are safe and sound, competitive and profitable, and capable of serving the banking needs of their customers in the best possible manner. OCC press releases and other information are available at <http://www.occ.gov>. To receive OCC press releases and issuances by email, subscribe at <http://www.occ.gov/listserv.htm>.



# NEWS RELEASE

Comptroller of the Currency  
Administrator of National Banks

NR 2006-127

FOR IMMEDIATE RELEASE  
November 28, 2006

Contact: Kevin M. Mukri  
(202) 874-5770

## OCC Reminds Consumers of Holiday Tips on Gift Cards

WASHINGTON – As the holiday shopping season gets underway, the Office of the Comptroller of the Currency (OCC) wants consumers to know that it is important to check carefully the terms and conditions that apply to gift cards they buy or receive.

People thinking about purchasing gift cards should consult a 2004 OCC Consumer Advisory that provides important information about such issues as fees and expiration dates, and explains how to handle complaints and lost or stolen cards.

“As we enter the holiday season, it is especially important that consumers be alert to the wide variety of terms and conditions available in the gift card market,” said Comptroller John C. Dugan. “By asking a few questions based on the information provided in our Advisory, holiday shoppers will be able to select the gift card that best meets their requirements for this popular product.”

Some issuers, for example, deduct a monthly fee from the gift card or apply inactivity fees if the card has not been used for some period of time. Gift card holders may not realize that the value of their cards has been reduced until they use them for a purchase.

The OCC suggests that consumers make sure they have received disclosures on some of the important terms and conditions of the gift card they purchase, including:

- The fees, if any, that apply to the gift card, including those that apply after the sale and reduce the value of the card
- The expiration date of the gift card
- The procedures to follow in the event a card is lost or stolen
- The locations at which the gift card can be used
- The procedures to follow in the event there are problems with the gift card

If these disclosures are not stated on the gift card itself, or its packaging, the OCC suggests that consumers check to see if there is a toll-free number or Web site that will provide this information.

Some gift cards are issued by banks and some are issued by nonbank companies. The OCC has been providing periodic guidance to national banks on the subject of stored-value cards, including gift cards. The most recent OCC guidance on gift cards was issued on August 14, 2006, and addressed disclosure and marketing issues associated

with gift cards.

Consumers are encouraged to read "*Gift Cards: OCC Provides Holiday Tips for Consumers*" on the OCC's Web site: [www.occ.gov/ftp/release/2004-108a.pdf](http://www.occ.gov/ftp/release/2004-108a.pdf).

###

The Office of the Comptroller of the Currency was created by Congress to charter national banks, to oversee a nationwide system of banking institutions, and to assure that national banks are safe and sound, competitive and profitable, and capable of serving the banking needs of their customers in the best possible manner. OCC press releases and other information are available at <http://www.occ.gov>. To receive OCC press releases and issuances by email, subscribe at <http://www.occ.gov/listserv.htm>.



## States Challenge Mall Gift Cards

November 7, 2004

Gift certificate and gift cards have become increasingly popular gifts at holiday time, but consumers should be aware that many come with hidden fees and may have a limited life span.

Massachusetts and Connecticut are taking a chain of shopping malls to court. The states have filed suit against Simon Malls, charging the national mall chain is selling gift cards that violate state consumer protection laws.

"These 'gift cards' are riddled with additional charges that Massachusetts consumers should not have to pay," Massachusetts Attorney General Tom Reilly said. "Despite the name, these gift cards are not what they seem."

Reilly said the cards violate the Massachusetts Gift Certificate law, which requires that gift cards be redeemable at full face value for seven years.

"Simon says - but Simon Property fails to tell the truth, when it subtracts \$2.50 a month from consumer gift cards six months or older," Connecticut Attorney General Richard Blumenthal said. "Simon illegally picks its customers' pockets to reactivate cards with unused balances."

"Card purchasers intend to give a gift to friends or loved ones, not to an already wealthy mall owner. State law - as well as logic and fairness - demand that gift cards retain their value just like dollars in a drawer," Blumenthal said.

In the Massachusetts lawsuit, Reilly charges that Simon Malls imposes a one-year expiration date on its cards and charges consumers numerous fees that significantly reduce the value of the card before it expires. Those charges include a \$2.50 dormancy fee that Simon automatically charges after the card has been held for six months, an initial fee to purchase the card, and fees for checking the card's balance or transferring the balance to another card.

While the state gift certificate law requires gift cards to be redeemable at full face value for seven years, a Simon Gift Card with a \$25 face value is worth only \$12.50 after the eleventh month, and would expire - be worth nothing at all - after one year.

The lawsuit alleges that these gift cards are subject to Massachusetts law, and not immune from state enforcement under the National Bank Act because they are not a bank product, as Simon Malls contends in a recent lawsuit. Reilly also alleges that Simon Malls does not sufficiently disclose fees connected with the card before consumers purchase them.

Connecticut's suit charges Simon is illegally imposing expiration dates on gift cards and charging fees on unused balances. The suit also charges that Simon fails to properly inform customers of two additional fees: a 50-cent charge to check the card balance and a \$5 fee to replace a stolen or lost card.

Simon Property Group is based in Indiana and owns and operates regional malls throughout the United States, including 14 in Massachusetts.

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**boston.com**

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CONSUMER BEAT

**The Boston Globe**

## Bill could run bank gift cards out of Mass.

By Bruce Mohl, Globe Staff | April 9, 2006

Beacon Hill lawmakers are trying to rein in bank-issued gift cards by outlawing the fees the cards depend on for a profit, a move that could have the effect of running the cards right out of the state.

The Senate has approved and sent to the House a bill that broadens the existing gift-card law to include bank-issued cards and to prohibit all customer fees for a period of seven years.

Industry analysts say bank-issued cards, which differ from retail gift cards in that they can be used virtually anywhere the card issuer (Visa, MasterCard, or American Express) is accepted, may not be able to survive if they are forced to eliminate their fees.

Senator Michael W. Morrissey, a Quincy Democrat who helped draft the gift-card legislation, said American Express representatives have told him the company would stop selling its cards in Massachusetts if the bill passes. American Express has already stopped shipping cards to Connecticut, Hawaii, New Hampshire, Rhode Island, and Vermont because of restrictions in those states. A company spokesman declined to comment.

Morrissey said the legislation would give Attorney General Thomas F. Reilly greater leverage in his lawsuit against a popular bank card issued by Indianapolis-based Simon Property Group, which operates malls in Massachusetts and across the country.

"It's like driving a knife through their heart," Morrissey said. "If we pass this, we will definitely make the attorney general's job easier."

Sarah Nathan, a Reilly spokeswoman, said the attorney general supports the legislation for the reason he sued Simon, to protect consumers. "Consumers should not have to worry that hidden fees and charges will wipe out the value of a gift card," she said.

Stewart A. Stockdale, chief marketing officer for Simon, said consumers know the pros and cons of bank-issued cards, which can be used in most stores, and retail cards, which can be redeemed only at the issuing store.

"The national trend is to incorporate that distinction into local legislation, focusing on consumer disclosure and customer education -- rather than fee prohibitions -- and allowing consumers to choose which option best suits their needs. It appears that, so far, the Massachusetts Legislature has chosen not to follow this trend," Stockdale said.

Stockdale declined to say what Simon would do if the gift-card legislation passes, other than to say that the Simon card "has been operated, and will continue to be operated, in compliance with all applicable law."

Several states give special treatment to bank-issued cards. New Jersey, for example, passed a gift-card law in January that prohibited dormancy, or inactivity, fees for at least two years. Prepaid bank-issued cards were exempted from the law.

Gift cards have become an enormous business since Blockbuster issued the first one in 1996. The Tower Group, a Needham research firm owned by MasterCard, estimates total sales this year of \$61.8 billion, with the market split between retail cards (\$50.8 billion) and prepaid bank cards (\$11 billion).

The prepaid market, consisting of cards directed at shoppers, consumers without bank accounts, and

corporations looking for a way to reward employees, is expected to grow 42 percent over the next two years to \$15.6 billion.

But as the prepaid market expands, it is bumping up against state laws restricting the fees and expiration dates of gift cards. Reilly, for example, sued Simon Property Group in November 2004, alleging it was violating the state gift-card law by selling a card that expired after one year and assessed \$2.50-a-month dormancy fees after six months.

Simon has since modified the card's terms, imposing the \$2.50-a-month fee after 13 months and making the card last at least 20 months. The card also comes with an initial \$2 to \$3 handling fee.

Simon has argued that its card is issued by a federally chartered bank and therefore not subject to state regulation. But that assertion was undercut by the US Office of Comptroller of the Currency, which notified Reilly and Simon that state restrictions on gift card fees are not preempted by federal regulations or law.

With Reilly's case against Simon dragging on in state court, the new gift-card legislation was drafted to give the attorney general more ammunition. Morrissey said anger about gift card fees is so great on Beacon Hill that he attracted more than 80 cosponsors with little effort.

Massachusetts law requires gift cards to last seven years, but the law is vague. Reilly has interpreted the language to mean that a card must last seven years before any fees can reduce its value, but the law doesn't specifically prohibit fees and it's not clear whether the law even applies to a card that could be redeemed anywhere.

The bill moving through the Legislature expands the definition of a gift card to cover cards that can be redeemed at multiple locations and prohibits "dormancy fees, latency fees, gratuities, or any other administrative fees or service charges that have the effect of reducing the total amount."

If the law passes or Reilly prevails in court, the bank-issued cards may have a tough time surviving here. Retail cards can operate without fees because cardholders eventually have to return to the store that issued the card to buy something. Owners of prepaid cards, by contrast, can shop almost anywhere, so the bank offering the card needs fee income to turn a profit.

Dennis Moroney, senior bank cards analyst at the Tower Group, said the market for prepaid gift cards is so big and expanding so fast that banks may just increase their up-front handling fees to cover their costs. He said rising fees could turn off consumers and pressure the federal government to develop a national gift-card policy.

"Your state is rattling the cage here," Moroney said. "In the end, like most things in life, there's probably going to be a compromise."

Bruce Mohl can be reached at [mohl@globe.com](mailto:mohl@globe.com). ■

# Alaska State Legislature

Interim:  
600 E. Railroad Ave  
Wasilla, AK 99654

Phone: (907) 376-3725  
Fax: (907) 376-4768



Session:  
Alaska State Capitol, Rm 108  
Juneau, AK 99801-1182

Phone: (907) 465-3743  
Fax: (907) 465-2381  
Toll Free: (800) 565-3743  
Rep\_Carl\_Gatto@legis.state.ak.us

**Representative Carl Gatto**  
Co-Chair, House Resources Committee  
District 13 - Palmer

## EXPLANATION OF CHANGES

CSHB 49( )

25-LS0263M

*"An Act relating to credit memos, gift certificates, and gift cards, and to unclaimed property; and making a violation of certain gift card prohibitions an unlawful trade practice."*

**Section 1** – Amends AS 34.45.240 to alter the original reference of “gift certificate” to “gift card” pursuant to the new definition contained in the bill.

**Section 2** – Amends AS 34.45.760(8) to reference the “gift card” definition found in AS 45.45.940.

**Section 3** – Amends AS 34.45.760(11) to add “gift cards” to the list of items included under intangible property.

**Section 4** – Substantially alters provisions of “gift cards” from the previous version (25-LS0263\C) by stipulating:

- 1) Gift cards have no expiration date (page 3, line 7); and
- 2) Excluding gift cards that awarded under a loyalty or promotional program, cards donated to a nonprofit organization, and “open universe” cards that may be used at multiple retailers (page 3, lines 18-24);
- 3) The definition of “device” has been refined to clarify that this section or the definitions contained therein do not apply telephone calling cards.
- 4) The definition of “gift cards” has been altered to remove the reference to the “purchaser” or “recipient” and to further stipulate that this does not apply to telephone calling cards

25-LS0263M  
Bannister  
2/6/07

**CS FOR HOUSE BILL NO. 49( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - FIRST SESSION**

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES GATTO, GARDNER, SEATON AND GRUENBERG, Crawford

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to gift certificates and gift cards, and to unclaimed property; and  
2 making a violation of certain gift card prohibitions an unlawful trade practice."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* Section 1. AS 34.45.240 is amended to read:

5       **Sec. 34.45.240. Gift certificates and credit memos.** (a) A gift card  
6 [CERTIFICATE] or a credit memo, issued in the ordinary course of an issuer's  
7 business, that remains unclaimed by the owner for more than three years after  
8 becoming payable or distributable is presumed abandoned.

9       (b) In the case of a gift card [CERTIFICATE], the amount presumed  
10 abandoned is the balance remaining on [PRICE PAID BY THE PURCHASER FOR]  
11 the gift card [CERTIFICATE]. In the case of a credit memo, the amount presumed  
12 abandoned is the amount credited to the recipient of the memo.

13 \* Sec. 2. AS 34.45.760(8) is amended to read:

14       (8) "gift card [CERTIFICATE]" has the meaning given in

1        AS 45.45.940 [MEANS AN OBLIGATION OF A BUSINESS ASSOCIATION  
2        ARISING FROM A TRANSACTION BETWEEN THE BUSINESS ASSOCIATION  
3        AND A CONSUMER TO PROVIDE GOODS OR SERVICES AT A FUTURE  
4        DATE; "GIFT CERTIFICATE" INCLUDES A GIFT CERTIFICATE, STORED  
5        VALUE CARD, GIFT CARD, ON-LINE GIFT ACCOUNT, OR OTHER  
6        REPRESENTATION OR EVIDENCE OF THE OBLIGATION OF A BUSINESS  
7        ASSOCIATION];

8        \* Sec. 3. AS 34.45.760(11) is amended to read:

9                    (11) "intangible property"

10                    (A) includes

11                            (i) money, checks, drafts, warrants, deposits, interest,  
12                            dividends, and income;

13                            (ii) credit balances, customer overpayments, gift cards  
14                            [CERTIFICATES], security deposits, refunds, credit memos, unpaid  
15                            wages, and unidentified remittances;

16                            (iii) stocks and other intangible equity interests in  
17                            business associations;

18                            (iv) money deposited to redeem stocks, bonds, coupons,  
19                            and other securities, or to make distributions;

20                            (v) amounts due and payable under the terms of  
21                            insurance policies;

22                            (vi) amounts distributable from a trust or custodial fund  
23                            established under a plan to provide health, welfare, pension, vacation,  
24                            severance, retirement, death, stock purchase, profit-sharing, employee  
25                            savings, supplemental unemployment insurance, or similar benefits;  
26                            and

27                            (vii) amounts due and payable as mineral proceeds;

28                    (B) does not include

29                            (i) unused airline tickets;

30                            (ii) shares of stock issued by a corporation organized  
31                            under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act) or

1 unclaimed dividends payable on the shares of stock; or  
 2 (iii) overpaid contributions by employers to the  
 3 unemployment compensation fund under AS 23.20.130;

4 \* Sec. 4. AS 45.45 is amended by adding a new section to article 12 to read:

5 Sec. 45.45.940. Gift cards. (a) A person may not sell or offer to sell a gift card  
 6 unless the

7 (1) gift card is redeemable at full face value in perpetuity; and

8 (2) gift card's date of issuance is clearly

9 (A) identified on the face of the gift card; or

10 (B) printed, if the gift card is an electronic card with a banked  
 11 dollar value, on a sales receipt transferred to the buyer or another holder of the  
 12 electronic card or available through an Internet site or a toll-free telephone line.

13 (b) A person may not sell or offer to sell a gift card that imposes dormancy  
 14 fees, latency fees, administrative fees, periodic fees, service fees, or other fees that  
 15 have the effect of reducing the total amount for which the holder may redeem a gift  
 16 card.

17 (c) This section does not apply to a gift card that

18 (1) is distributed by the issuer of the gift card under an awards, loyalty,  
 19 or promotional program if the recipient does not give the issuer money or another  
 20 thing of value in exchange for the gift card;

21 (2) is donated to a nonprofit organization or a charitable organization  
 22 for fundraising purposes; or

23 (3) can be used to purchase goods or services from more than one  
 24 seller of goods or services.

25 (d) In this section,

26 (1) "device" includes an electronic card, but does not mean an access  
 27 number or authorization code, whether manually or electronically dialed, to make  
 28 calls;

29 (2) "gift card" means a device that is usable up to its face amount  
 30 instead of cash in exchange for goods or services, except telephone services, supplied  
 31 by a seller.

L

- 1 \* Sec. 5. AS 45.50.471(b) is amended by adding a new paragraph to read:
- 2 (52) violating AS 45.45.940 (gift cards).

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 49  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue 04  
 Title Gift Cards RDU Taxation and Treasury  
 Sponsor Representatives Gatto, Gardner, Seaton and Component Tax Division  
Greunberg  
 Requester House Labor and Commerce Component No. 2476

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	*	*	*	*	*	*
-------------------------------	---	---	---	---	---	---

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

See attached.

Prepared by: Rachel Lewis and Nels Tomlinson Phone (907) 465-5885  
 Division Tax Date/Time \_\_\_\_\_  
 Approved by: Jerry Burnett Date 1/26/2007  
 Agency Dept. of Revenue

**FISCAL NOTE**

**STATE OF ALASKA  
2007 LEGISLATIVE SESSION**

**BILL NO. HB 49**

---

**ANALYSIS CONTINUATION**

**Bill Language:** This bill would redefine "intangible property" so that unclaimed gift cards would no longer be considered unclaimed property. It would also add certain conditions under which gift cards could be sold, and would make violating those conditions an unlawful trade practice..

**Revenues:** This bill will have an indeterminate effect on revenue. Currently, a small amount of money from unclaimed gift cards is turned over to the Department of Revenue's Unclaimed Property Unit, and a portion of that money is eventually deposited in the general fund. Under this bill, that small amount of money will no longer be turned over to the Unclaimed Property Unit. It is currently unclear what future contributions to the general fund from this source might have been. Fines and forfeitures from unlawful trade practice enforcement related to gift cards are also unknown.

**Expenditures:** It is not anticipated that this bill will result in any savings to the Department of Revenue. The current volume of unclaimed gift cards reported to the Unclaimed Property Unit is so small that there will be no appreciable change in their workload.

**HB**

**51**



**State of Alaska**  
Department of Public Safety  
**Alcoholic Beverage Control Board**

Sarah Palin, Governor  
Walt Monagan, Commissioner

January 30, 2007

Representative Jay Ramras  
Alaska House of Representatives  
State Capitol  
Room 118  
Juneau, Alaska 99801-1182

RE: HB 51 - Recorking Wine Served with a Meal

Dear Representative Ramras:

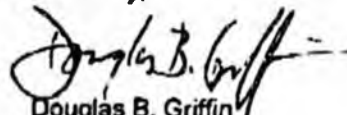
I have been asked your aide Emily Standiff to update written communication I had with your staff last year regarding legislation you have introduced to allow for the recorking and removal from liquor licensed premises wine not consumed by a customer. It is my pleasure to do so, speaking only for myself and not the Alcoholic Beverage Control Board.

HB 51 is brief, but very specific, in describing circumstances when wine ordered and served for consumption may be resealed and removed from licensed premises. Your bill is limited to wine that has been partially consumed with a meal and requires care to reseat the bottle to address concerns regarding open containers of alcohol in a motor vehicle. Keeping the bill narrow is important so that distinctions made in Title 4 between licenses for on-premise alcohol consumption and off-premise consumption (package stores) are kept as clear and separate as possible.

Recorking provisions are found in many states. The consensus of states that allow the resealing of wine not consumed with a meal is that benefits outweigh potential problems. This bill removes one more excuse for a person to drink excessively and endanger the public by driving. Dining patrons are also able to have a wider array of choices in selecting a wine to have with their meal knowing that unfinished wine may be removed and enjoyed at a later time at home or in their hotel room.

I hope this letter proves helpful to the committee. I will be available to answer any further questions at the House Labor and Commerce Committee hearing on January 31.

Sincerely,

  
Douglas B. Griffin  
Director

cc: Lauren Rice, Special Assistant, Department of Public Safety  
Anne Carpenchi, Asst. Attorney General, Department of Law

Alcoholic Beverage Control Board  
5848 E. Tudor Road - Anchorage, AK 99507 - Voice (907) 269-0350 - Fax (907) 272-9412

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 51  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title Recorking wine served with a meal RDU Statewide Support  
 Component ABC Board  
 Sponsor Representative Ramras  
 Requester House Labor & Commerce Component No. 2690

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This statute change will incur no fiscal impact on the Alcoholic Beverage Control Board.

Prepared by: Douglas B. Griffin Phone 269-0351  
 Division Alcoholic Beverage Control Board Date/Time 1/29/07 2:24 PM  
 Approved by: Commissioner Walt Monegan Date 1/29/2007  
 Agency Department of Public Safety

**Chair, Judiciary  
Labor & Commerce  
Oil & Gas  
Military & Veteran Affairs**  
1292 Sadler Way, Suite 324  
Fairbanks, Alaska 99701  
Phone: (907) 452-1088  
Fax: (907) 452-1146

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Representative Jay Ramras  
District 10

### MEMO

To: Representative Kurt Olson

Fm: Representative Jay Ramras

Date: January 25, 2007

Re: HB 51

---

Please accept this memo as a hearing request for HB 51 in House Labor and Commerce.  
Attached is a copy of the bill packet for your review.

Thank you for your time and consideration to this matter.

Attachments to this memo:

- HB51
- Sponsor Summary
- Sec. 04.16.120
- Supporting Data and Research

Please contact Emily Stancliff at extension 3004 with any questions.

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District 10**

### **House Bill 51 Sponsor Statement**

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**“An Act relating to recorking, sealing, or packaging of wine served with a meal and removal of recorked, sealed, or packaged wine from licensed premises.”**

House Bill 51 will allow the patrons of restaurants to enjoy a bottle of wine with their meals without the need to consume the entire bottle. Presently, if a customer purchases dinner and is unable to eat it all they can request a package to take the leftovers home. If it is a bottle of wine the only options are to finish it before leaving, or leave the unconsumed portion at the restaurant. Since the majority of customers chose the first option they may have had too much to safely drive.

What House Bill 51 does is allow the restaurant to recork the bottle in such a manner as to require the use of a corkscrew to reopen the bottle. In the case of non-corked bottles or at the discretion of the Alcohol Beverage Control Board the wine can be sealed.

House Bill 51 is an additional tool to curb DUI's by allowing the consumer to purchase and enjoy a bottle of wine with their dinner, and not overindulge simply because of economics.

**Sec. 04.16.120. Removal or introduction of alcoholic beverages.**

**Statute text**

**(a) A person may not remove from licensed premises alcoholic beverages that have been sold or furnished for consumption only on the premises.**

**(b) Except as provided in this subsection, a person may not bring an alcoholic beverage into licensed premises for use or consumption by oneself or another person on the premises unless that person is a licensee, an agent, employee, or common carrier in the regular course of employment. With the permission of the licensee, a person may bring wine into premises licensed as a beverage dispensary or a restaurant or eating place for consumption by the person while eating food served at a table on the licensed premises. The beverage dispensary or restaurant or eating place may charge a corkage fee for serving wine supplied by a customer.**

**History**

**(§ 3 ch 131 SLA 1980; am § 15 ch 74 SLA 1999)**



## State Regulations on Re-corking Wine from Restaurants

Compiled by the National Restaurant Association from state liquor authority, state restaurant association, and other sources. All information is believed to be accurate as of June 2005 and is provided with the understanding that the National Restaurant Association is not engaged in rendering legal or professional services. No warranty of accuracy is given. Please verify policies and appropriate procedures with your state and local alcohol beverage control department as other regulations may apply.

State	Rules on taking wine home from restaurants
<b>Arizona</b>	Patrons may re-cork and removed a partially consumed bottle of wine as long as it was purchased with a meal and the cork is replaced flush with the bottle.
<b>Arkansas</b>	Arkansas ABC Reg. 1.79(27) does provide that those establishments which hold an on premise permit that would allow the service of wine may allow a consumer who purchases an unsealed package of wine in conjunction with a food service and consumes a portion of the wine on the premises with the meal, to replace the cork and remove the partially filled package from the premise. Contact enforcement agency for compliance details.
<b>California</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>Colorado</b>	Patrons may take one 1 partially consumed bottle of wine up to 750 ml purchased from an establishment with a hotel/restaurant liquor license. Restaurants are not required to do so. Those restaurants who do extend this option to customers is urged to reseal and package the wine to protect against any open container violation. <i>(enacted 2005)</i>
<b>Connecticut</b>	Patrons are allowed to take wine home when purchased with a meal. Regulations pertaining to transportation of unsealed container apply.
<b>Delaware</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for additional compliance details.
<b>Florida</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for additional compliance details. <i>(enacted 2005)</i>
<b>Georgia</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for additional compliance details.
<b>Hawaii</b>	Legislation enacted in 2002 allows county liquor commissions to permit many licensees (incl. restaurants) to allow patrons to remove re-corked/re-sealed wine from premises. Contact enforcement agency for compliance details.
<b>Idaho</b>	Patrons are allowed to take wine home when purchased with a meal. Regulations pertaining to transportation of unsealed container apply.
<b>Indiana</b>	Patrons are allowed re-cork and take home wine purchased with a meal. The cautionary statement is to avoid any violation of the open container laws in the area that the wine will then be transported in. Local law enforcement can provide that information.
<b>Iowa</b>	Patrons are allowed to take wine home when purchased with a meal if the restaurant or bar has the appropriate licensing in place.

<b>Louisiana</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>Maine</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>Michigan</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details. <i>(enacted 2005)</i>
<b>Minnesota</b>	A restaurant with an on-sale or wine license may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal, to remove the bottle when leaving the license premises provided that the bottle has been opened and the contents partially consumed.
<b>Montana</b>	Re-corking is permitted in businesses with all-beverage licenses or beer/wine licenses. A restaurant beer/wine license may <u>not</u> sell alcohol to go. Contact enforcement agency for compliance details.
<b>Nevada</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>New Hampshire</b>	Unconsumed wine purchased with a full meal may be taken from premises, provided patron is not intoxicated, bottle is properly sealed/bagged, and transported in vehicle area inaccessible to the driver.
<b>New Jersey</b>	Patrons are allowed to remove partially consumed wine from the premise as long as it is re-corked and placed in the trunk of the car. Not having direct access to the wine would remove the chance of receiving an open container citation.
<b>New York</b>	State law does allow patrons to take home <u>one</u> bottle of wine purchased with full meal. Please contact enforcement agency for compliance details.
<b>North Carolina</b>	If the establishment has an <u>off-premises</u> permit, then they customer can take an opened bottle of wine home by corking it. If the establishment does <u>not</u> have an off-premises license, the customer cannot. Re-corked wine must be transported in a vehicle compartment inaccessible to the driver.
<b>Oklahoma</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>Oregon</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>Pennsylvania</b>	All hotel (H) and restaurant (R) licensees may now allow patrons who have purchased a bottle of wine in conjunction with a meal, to take the unconsumed portion of the bottle with them when they leave. The bottle <u>must be resealed</u> before leaving the premises. A "meal" is defined as food prepared on the premises sufficient to constitute breakfast, lunch, or dinner; a "meal" does not include snacks such as pretzels, popcorn, chips, or similar items. This does not apply to retail dispenser (beer only or E), club, (C) or catering club (CC) licenses.
<b>South Carolina</b>	Nothing in the S.C. law prevents a patron from removing the open container from the restaurant. It is also legal to have the open container in a car as long as it is in the trunk or luggage compartment. Contact enforcement agency for compliance details.
<b>Tennessee</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.

<b>Texas</b>	Patrons who order wine with food and have a portion of the open container remaining may remove the open container of wine from the premises. Contact enforcement agency for compliance details.
<b>Utah</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>Vermont</b>	Vermont allows restaurants the discretion of allowing patrons to take home opened, bagged bottles of wine. **only in accordance with T 7 VSA § 222(1) Contact enforcement agency for compliance details.
<b>Virginia</b>	Patrons are allowed to take wine home when purchased with a meal. While it is not required to be in the trunk it is recommended that the bottle is inaccessible to the driver and passengers.
<b>Washington</b>	Washington law permits the unused portion of wine to be re-corked, packaged and carried out by the guest. Contact enforcement agency for compliance details.
<b>Wyoming</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details. ( <i>enacted 2005</i> )

\*\* All states not mentioned do not allow the re-corking and removal of partially consumed wine that was purchased with a meal.

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## Wine Corks, Wine Corkers

corks, wine corks, bottle corks, wine making kits, wine making supply, home wine making supplies, winemaking supply, wine making supplies...



**Item # 17421**  
**Champagne Floor Corker by Ferrari**

Corks Champagne bottles and standard wine bottles. Uses our 1.5 liter champagne corks or any straight wine cork. Very good quality all frame and legs. Corks all standard size wine bottles including 375ml and 750ml champagne bottles. Caps beer bottles too with adaptor for crown caps #17530 sold below.

\$93.95 Quantity



**Item # 17530**  
**Adaptor for Crown Caps - Use with Corkers Listed**

For use with our #4040 La Dio Padre or our #17421 Champagne corker. Makes your wine capping could not be easier.

\$9.95 Quantity

**Item # 4036**  
**Italian Twin Lever Corker**

Deluxe, adjustable push rod for regulating depth of cork insertion favorite corker.

\$19.95 Quantity

Carboys  
Chemicals - Wine  
Clarifiers - Wine  
Corks  
Corkers  
Crushers - Grapes  
Destemmers -  
Grapes  
Demi-Johns  
Fermentors  
Filters and Pads  
Foils - Champagne



Fruit Flavoring  
Labels and Paper  
Presses - Grapes  
Shrink Caps  
Spigots - Wood  
Sterilizing - Wine  
V-Vessel System  
Wine Storage  
Racks  
Wine Accesories  
Wine Glasses  
Yeast - Dry - Wine  
Yeast - Liquid  
 Coming Soon:  
 • Stainless Tanks



Item # 4037  
**Easy Twin Lever Corker**

Nylon body with spring that helps secure bottle from sliding while then our Italian twin lever corker.

\$24.95

Quantity

1

Beer Making  
Supplies  
BYO Brew Your  
Own Magazine  
Beer Equipment  
Kits  
Beer Ingredient  
Kits:  
 • Brewers Best  
Kits  
 • Brew House Kits  
 • Malt Extract Kits  
 • Barons Beer Kits



Item # 4039  
**Portuguese Twin Lever Corker**  
 Good quality corker.

\$13.95

Quantity

1

Additives - Beer  
Books - Beer  
Bottles - Beer  
Brewers Garden  
Herbs  
Brewing / Boiling  
Pots  
Candi & Sugars  
Caps & Cappers  
Carboys  
Chemicals - Beer  
Cleaners - Beer  
Fermentors  
Filters and Pads  
Flakes & Adjuncts  
Fruit Flavors  
Oregon Fruit  
Purees



Item # 4040  
**Italian Floor Corker - 'La Dio Padre' by Ferrari**

'La Dio Padre' of floor corkers. Brass crimping jaws. If you are lo this is it! Handle breaks down into two sections for easier storage. standard size wine bottles including 375ml, 750ml and 1.5 ltr. Co too with the optional adaptor for crown caps #17530 sold above.

\$89.95

Quantity

1

Item # 4042

- Harvest Fruit
- Bases
- Grains - Brewing
- Herbs - Dried
- Hops
- Kegging
- Equipment
- Labels and Paper
- Malt-Liquid
- Malt-Spray Dry
- Malt-Whole Grain
- Sanitizers - Beer
- Sugars and
- Adjuncts
- V-Vessel System
- Yeast - Dry
- Yeast - Liquid



**Portuguese Floor Corker**

Excellent, heavy duty floor corker with high quality crimping jaws and 1.5ltr bottles. Corks 375ml bottles with small block of wood placed on bottle holder. Makes a great gift!

\$49.95

Quantity

- Common
- Equipment
- Air Locks
- Better Bottles
- Bottle Caps
- Bottle Drainers
- Bottle Rinsers
- Brushes
- Bungs - Rubber
- Carboys
- Cleaning
- Chemicals
- Cleaning
- Equipment
- Demi-Johns
- Fermentors
- Fermenting
- Accessories
- Filters and Pads
- Funnels
- Gallon Jugs
- Hydrometers
- Labels and Paper
- Racking
- Equipment
- Sanitizers
- Screw Caps
- Siphon Equipment
- Thermometers
- Test Equipment
- Test Kits
- Spoons - Paddles
- Sterilizing
- Chemicals
- V-Vessel System



Our No. 7 first quality corks are made of natural cork, prewashed natural products, greatly improving their appearance. The corks ; decorative grape leaf pattern and are chamfered. Recommended stopper for table wine only, non-wine liquid or bottle closures. Ca hand no they are tight but NOT airtight. NOT recommend for lay any liquid but upright storage is ok. Great when using wine bottle with red hots, M&M's or when sending wedding or party invitation

**First Quality Corks / #7 x 1-3/4**

Selected Item #4050

(A) First Quality Corks / Bag of 30 / No. 7 x 1 3/4

\$3.49

Quantity



1-3/4 inch long corks provide up to 3-5 years of protection for agi quality corks are made of natural cork, prewashed and filled with greatly improving their appearance. The corks are printed with a leaf pattern and are chamfered. Best choice when using a twin le any hand corker. Floor corkers too.

**First Quality Corks / # 8 x 1-3/4 Corks**

Selected Item #4060

(A) First Quality Corks / Bag of 30 / No. 8 x 1 3/4

\$3.95

Quantity



1-1/2 inch long corks provide up to 2 years of protection for aging corks are made of natural cork, prewashed and filled with natura improving their appearance. The corks are printed with a decora pattern and are chamfered. Recommended for use with floor cor

**First Quality Corks / # 9 x 1-1/2 Corks**

Selected Item #4082

(A) First Quality Corks / Bag of 30 / No. 9 x 1 1/2

\$3.95

Quantity

- Miscellaneous
- Liquor Making
- Vinegar Making
- Specials/Closeouts
- Buy Gift
- Certificates

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1-3/4 inch long corks provide up to 3-5 years of protection for aging. Quality corks are made of natural cork, prewashed and filled with wax, greatly improving their appearance. The corks are printed with a leaf pattern and are chamfered. Recommended for use with floor corks.

**First Quality Corks / # 9 x 1-3/4 Corks**

Selected Item #4064

(A) First Quality Corks / Bag of 30 / No. 9 x 1 3/4

\$4.25

Quantity

1



Quality Wine and Ale Supply and Nomacorc® have joined forces to bring you the #1 synthetic cork on the market! What's so special about these? The answer is the manufacturing process. Other types of synthetic corks are injection molded which is a batch process that produces corks with inconsistent density and cell structure size resulting in inconsistent protection. Nomacorc® are made by a unique, patented, co-extrusion process. The interior and exterior sections of the cork are bonded together by heat adhesion. Extrusion is a continuous process that provides a very consistent quality, and each cork is exactly the same. Nomacorc® is simply a better closure because its closed cell structure creates a better barrier from oxygen and protects your wine. They have made for us a 9 x 1 1/2 cork, printed with a leaf logo. We've tested the corks and they work best with floor corks and hand corks too. These corks seal instantly and the bottle can be stored directly after corking. You can also use any common corker on your wine bottles. This is modern technology that preserves your wine. We are pleased to be able to offer it to you. Recommended for use with floor corks and also for twin lever corks. These corks will provide at least 3 years of protection during aging.

**Nomacorc® Synthetic Corks / # 9 x 1-1/2**

Selected Item #4086

(A) Nomacorc® Synthetic Corks / Bag of 30 / No 9 x 1-1/2

\$6.75

Quantity

1



1-3/4 inch long corks provide up to 5 years of protection for aging. Quality corks are agglomerated and non-chamfered. You will find minimal defects in high quality corks. Use with floor corks only.

**Premium Twin Disc Wine Corks / #9 x 1-3/4**

Selected Item #4102

(A) Premium Corks / Bag of 30 / No 9 x 1 3/4

\$6.25

Quantity

1



Selected Item #4119

(A) 9 x 1-1/2 Agglomerated Superior Wine Corks - Per 1000

\$49.95

Quantity

1

This is a ridiculously unbelievable sale, a real super Superbuy! A cork supplier has closed their doors and auctioned off their left over just happened to be at the right place at the right time and score. There is no compromise on quality here as all the corks are wine want to act fast because quantities are limited and when the corks are gone for good. Choose your style and length. 1000 count bag

**Some types of corks:**

**Agglomerate Corks: (#4119)**

This type of cork closure is produced from cork granules that are cork oak resins using heat treatment while under pressure. They are formed by a single molding or by extrusion. Agglomerate cork has high resins for a good seal. A mixture of clean cork granules that are pressed together and formed into wine corks are used to produce agglomerate stoppers. Agglomerate wine corks are the ideal economically produced stoppers to be used for wine which will be consumed within two or three years.

**Twin Top (Disc) or One by One Corks: (#4117 & #4111)**

This is a new generation of cork stoppers, economically priced as well as high quality natural straight corks. It is comprised of a disc of agglomerate cork, and a disc of natural cork at each end.

(Below is for customer information only for other types of corks)

**Natural Straight Wine Corks:**

This is a cylindrical stopper which has been punched directly from 100% natural product. Once the stopper has been punched it is sorted into various qualities by computerized sorters, washed and sterilized. For added assurance, a final quality sort is done manually and random samplings are sent for laboratory testing for microorganisms, moisture control, etc. There are different grades of treatments available depending on the type of bottle, bottling method.

**Ice Wine Natural Corks:**

These are the highest quality corks specifically sized and treated for neck ice wine bottles and to withstand high sugar content

**Colmated or Pore-Filled Corks:**

This is a natural cork which goes through an extra operation of "colmation" inherent to all corks. This treatment improves the cork's mechanical strength. Usually the filling of the pores is performed on lower grades since they are of a quality high enough not to require pore filling. The colmation is done using a mixture of cork particles of a granulometry and natural resin approved by the FDA. Colmated corks are a very good functional stopper.

**Item # 4208**

**Tapered Wine Corks / Bag of 25 / No. 8**

Tapered cork with 7/8 inch top, 11/16 inch bottom.



Quantity



## 2005 02 18: Michigan Considers a Wine Re-corking Bill

by Joseph McConnell

There's an old piece of internet humor that contrasts the Martha Stewart personality type with the attitudes and reactions of "the real woman." In one of its entries, it has the Martha-type saying that freezing in ice cube trays is a wonderful way of preserving leftover wine. The real woman's reaction is, "Leftover wine?"

We react in somewhat the same way to a bill introduced recently in the Michigan Senate by Sen. Jud Gilbert, which would permit restaurants and restaurant patrons to "re-cork" and take home wine left over at the end of a meal. Not a problem we often have. But although CII management will probably seldom take advantage of this capability, we still support it, for several reasons.

First, we applaud anything that encourages diners to order and restaurants to offer higher quality wines. The theory is, if you know that you'll be able to take home (and perhaps freeze in ice cube trays) the remains of that Chateaufort or Howell Mountain, you're more likely to order it instead of the Bonny Doon or even the Diet Slurpee. This is of particular interest when you consider people who often dine out alone; without a recorking law, dinner for one means a choice between the by-the-glass offerings, getting sloshed, or leaving good wine to the tender mercies of the kitchen staff.

And it's also argued that the bill will have some impact on drunken driving – you won't feel economically pressured to finish your bottle, and therefore will drive more sensibly and safely on the way home. We admit that this is not the most convincing argument – no statistics are collected here or anywhere else to show *what* an intoxicated driver was drinking, and consequently there's no basis to say that people pushing themselves to drain the last drop from a bottle of 1995 Brunello are subsequently laying waste the countryside. But if it makes the values voters happy, we're willing to play along, since the other benefits for the industry and the consumers are real enough.

The mechanics of it are not specified in the current bill's language -- presumably it would be necessary to do more than just pounding in the cork again. There's likely to be some kind of official re-seal process or something similar, letting Officer Friendly know that you're a fine upstanding oenophile who simply practices moderation, and not some Ripple-swilling Beatnik, cruising for babes with an open bottle of alcohol in your car.

In fact, if it becomes law, it might not be a bad idea for restaurants to provide a hang tag of some kind, citing the actual bill. And of course, there might be some incremental revenue to be made by selling preservation gear along with the re-corked bottle. A basic VacuVin kit, perhaps with the restaurant's label, might be a nice thing to stock and sell as an add-on.

Anyway, if you're a Michigan voter and you'd like to see the state follow the 30 other states that have similar laws, drop your Senator a line and encourage him or her to support Senate Bill 0199 2005.

## **Restaurateurs toast wine 'doggie-bagging' laws**

By Leeann Cannon

When it comes to promoting alcoholic beverage sales, restaurateurs sometimes are forced to choose between making a profit and making sure their customers are acting responsibly.

With an increasing number of states passing "recorking" bills on partially consumed bottles of wine, many restaurateurs around the country are singing the praises of the law that they see as a blessing to their businesses. There are approximately 30 states at present, including Colorado, Connecticut, Louisiana, Michigan, New York and Texas, which allow restaurants to reseal wine for customers to take home.

While the National Restaurant Association has "not paid a great deal of attention" to the so-called wine doggie-bagging measures, according to NRA spokesman Brad Dayspring, several state-level groups have shown a devoted interest.

Andy Deloney, director of public affairs for the Michigan Restaurant Association, said the MRA believes that recorking wine will encourage sales of bottles of wine at restaurants, adding, "That's something our members are interested in." The MRA represents more than 4,500 foodservice establishments.

In May Michigan became the latest state to pass the recorking ordinance. Dubbed the "Merlot-to-go" bill by the MRA, the bill passed through the state's Senate and House on a unanimous vote.

"We really believe the law is going to have a positive impact on drunk driving," Deloney said. "Some people go into a restaurant and can't finish a whole bottle. But if they spend \$50 on it, they're going to want to get their money's worth. This is where we've created a problem. Now, rather than risking impairing oneself, customers can take the bottle home."

Although the passage of the Merlot-to-go bill was unanimous, the Michigan Legislature employed a nonpartisan Senate staff called the Senate Fiscal Agency to analyze the proposed recorking law before the final decision was made.

The bill analysis committee noted that any recorking of partially consumed bottles of wine would have to comply with Michigan's Vehicle Code, which prohibits drivers and passengers from transporting open containers of alcohol unless they're in the trunk or a separate compartment. Open container laws proved to be a concern for many states when they were considering whether or not to pass similar recorking measures.

According to Michigan legislative analyst Suzanne Lowe: "Michigan has an open container law on the books for a reason: to discourage drinking and driving. ... Reportedly 41 percent of fatal car accidents involve alcohol. The bill might contribute to this problem by creating an opportunity for people to transport opened bottles of wine."

In response to Lowe's concerns, Michigan legislature made sure the bill required that the top of the cork was even with the lip of the bottle when it was resealed, therefore making a corkscrew necessary to reopen the bottle.

In support of the bill, Lowe said that "diners who ordered a bottle instead of a glass would have a selection that was both wider and of higher quality, since most restaurants offer only limited choices by the glass, and those tend not to be the finest wines."

Many restaurateurs agree with Lowe and are counting on the bill to increase not only bottle sales in

general, but also sales of more expensive wines.

Chuck Hunt, executive vice president of the New York State Restaurant Association, said that without a doubt the recorking laws would help promote more expensive purchases of wine. "If you know you're not going to finish a bottle, you're not going to order it," Hunt added. "Now that customers can keep whatever they don't drink, they have nothing stopping them from ordering a \$40 bottle."

The New York State Legislature, which passed a recorking bill in September 2004, requires that establishments put the resealed wine bottle in a tamper-proof bag to ensure that the open container law is obeyed, according to Hunt.

"One of the big problems that arose when the law was first passed was that no one knew where to get a suitable bag," he said. "We actually got our hands on one here at the New York State Restaurant Association and sent it on to the state liquor authority. Once we got it approved, I ordered about 10,000 of them for our members."

The NYSRA boasts the membership of approximately 7,000 restaurants.

Hunt also pointed out that with the tamper-proof bags, liquor liability for restaurants is no longer a concern. "Once a restaurant seals the bag, they are not responsible," he said. "As long as the standards of proper alcohol service are met, there is no issue [with liquor liability]."

Cindy Wiendling, executive vice president of the Colorado Restaurant Association, said Colorado in May 2004 passed its "cork-and-carry" law pertaining only to restaurants with a hotel/restaurant liquor license. In April of this year, the state expanded the bill to other types of liquor licenses including brewpubs.

"We lobbied to pass the cork-and-carry law in conjunction with the state's lowering of its blood alcohol concentration standard for defining drunkenness to 0.08 percent from 0.10 percent," Wiendling said. "Our major concern with the lower BAC was that customers — especially couples — wouldn't want to order a whole bottle of wine out of fear that they might not be able to drive home safely. The recorking law mitigated some of that concern."

In addition, the CRA offers recommendations to restaurants and consumers to ensure that taking home resealed bottles of wine doesn't conflict with the Colorado statewide open container law that was passed earlier this year. The open container law does provide that recorked bottles of wine are acceptable in vehicles as long as the bottles are in the trunk or in a sealed compartment, according to Wiendling.

"The CRA suggests that restaurateurs not only recork the partially consumed bottles of wine so that the cork is even with the lip of the bottle but also apply tape to the seal and place the bottle inside a bag or box," Wiendling added. "The Colorado liquor association said that by following our recommendations, even if the driver of a vehicle didn't put the wrapped bottle in the trunk, he or she would still have a strong defense against the open container law."

According to a published report, Colorado police thus far have not reported a great increase of open-container arrests.

Act No. 21  
Public Acts of 2005  
Approved by the Governor  
May 19, 2005  
Filed with the Secretary of State  
May 19, 2005  
EFFECTIVE DATE: May 19, 2005

**STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 2005**

Introduced by Senators Gilbert, Hammerstrom, Sanborn, McManus, Jelinek, Goschka, Bishop, George, Barcia and Switalski

**ENROLLED SENATE BILL No. 199**

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 1021 (MCL 436.2021), as amended by 2002 PA 725.

*The People of the State of Michigan enact:*

Sec. 1021. (1) The commission shall not require a licensee to sell or serve food to a purchaser of alcoholic liquor. The commission shall not require a class A hotel or class B hotel to provide food services to registered guests or to the public.

(2) Except as otherwise provided in subsection (3), a purchaser shall not remove alcoholic liquor sold by a vendor for consumption on the premises from those premises.

(3) A vendor licensed to sell wine on the premises may allow an individual who has purchased a meal and who has purchased and partially consumed a bottle of wine with the meal, to remove the partially consumed bottle from the premises upon departure. This subsection does not allow the removal of any additional unopened bottles of wine unless the vendor is licensed as a specially designated merchant. The licensee or the licensee's clerk, agent, or employee shall reinsert a cork so that the top of the cork is level with the lip of the bottle. The transportation or possession of the partially consumed bottle of wine shall be in compliance with section 624a of the Michigan vehicle code, 1949 PA 300, MCL 257.624a.

(4) This act and rules promulgated under this act do not prevent a class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from allowing its invitees or guests to possess or consume, or both, on or about its premises, alcoholic liquor purchased by the invitee or guest from an off-premises retailer, and does not prevent a guest or invitee from entering and exiting the licensed premises with alcoholic liquor purchased from an off-premises retailer.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Gay E. Randall*

Clerk of the House of Representatives

Approved \_\_\_\_\_

\_\_\_\_\_  
Governor

## Restaurants Applaud State "Recorking" Laws

With recent Supreme Court decisions helping to improve sales in the wine industry, it may not be long before lawmakers tackle another issue important to both wine producers and restaurateurs: wine recorking in restaurants.

A Michigan law passed last month now allows restaurant patrons to take home unfinished bottles of wine they have purchased, provided that the wine has been recorked. Michigan joins approximately 30 other states, including California, New York, Texas and Washington, that also allow opened bottles of wine to be taken home from restaurants. The Michigan Restaurant Association, which lobbied heavily for the measure, said that recorking laws would be a boost for the restaurant industry's wine sales, since customers would be inclined to purchase entire bottles of wine instead of individual glasses.

Some lawmakers, however, are worried that recorking laws might interfere with states' drinking and driving policies, especially with open-container policies. Even the states that allow wine recorking have strict policies on transporting open containers of alcohol. Most often, wine must be completely recorked, with the cork's edge touching the lip of the bottle, or the wine bottle must be placed in a tamper-proof container. In some states, the wine must be placed in an area of the car inaccessible to the driver, such as the trunk.

Despite these concerns, many restaurants have applauded recorking measures, saying that these laws have increased sales of wine bottles—especially for their higher-priced wines. Restaurant owners say customers are more inclined to buy expensive wines if they know they can take them home.

Even so, recorking laws are not meant to supersede responsibility. Restaurant owners, who still have liability in preventing patrons from abusing alcohol, have the final say in whether opened wine bottles may be taken home.



**HB**

**65**

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Delivered to: 129 6th St., Rm. 329

## MEMORANDUM

April 23, 2007

**SUBJECT:** CSHB 65(L&C) relating to personal information  
(Work Order No. 25-LS0311\E)

**TO:** Representative Kurt Olson  
Chair of the House Labor and Commerce Committee  
Attn: Eleanor Wolfe

**FROM:** *TS* Theresa Bannister  
Legislative Counsel

This memo accompanies the bill described above.

1. Technical change. A technical change was made to sec. 45.48.700(a)(1). The name of the referenced federal act was corrected to read "Fair Credit Reporting Act" (the correct name and the name used elsewhere in the bill) instead of "Fair Credit Protection Act."

2. Interstate commerce. Because this bill could apply to out-of-state businesses that operate in the state, including through the Internet, it raises a constitutional interstate commerce issue. Whenever a bill establishes a requirement that may affect persons operating from another state, there is always a question whether the requirement places a burden on interstate commerce that would not satisfy the federal constitutional commerce clause.

3. Federal law preemption. As you are probably aware, certain federal laws may preempt your new provisions in certain areas. If you would like further information on this issue, please advise.

If I may be of further assistance, please advise.

TLB:ljw  
07-223.ljw

Enclosure

## HB 65 LIABILITY ISSUES

The Department of Law does not oppose the concept behind HB 65, which will add significant protections for consumers against identity theft. The state does, however, oppose provisions in the bill that will impose liability on the state and its agencies.

The section that causes the Department the most concern is in Article 4 (protection of social security numbers) at Sec. 45.48.480 (penalties) beginning on page 21 of the bill. This section allows the recovery of *actual damages or \$5,000*, whichever is greater, for knowing violations of AS 45.48.400 – 45.48.430. The state's monetary exposure under this section could be enormous. The Department believes this exposure is completely unnecessary:

- \* **This penalty provision will not change the state's conduct, and will not further any goals of this bill. The state is committed to securing all of the personal information it must collect and maintain, and has spent millions of dollars upgrading its systems. This effort will continue regardless of HB 65.**
- \* **The requirement that the violation be a "knowing" violation does not protect the state. The definition of "knowing" in AS 11.81.900 is broad, and includes only that you be "aware" of your conduct.**
- \* **No other state has imposed this kind of liability on its state agencies for these kinds of violations. And for good reason. There is no reason to expose state coffers to billions of dollars in potential damage awards.**
- \* **Removing the state from these penalty provisions WILL NOT create a "double standard" between private business and state government for a variety of reasons:**
  1. **Unlike private business, the state does not profit from the sale or use of personal information.**
  2. **Unlike private business, the state is REQUIRED to perform specific statutory duties under state law that require the use, disclosure, and sharing of personal information.**
  3. **Unlike private business, the state cannot insure itself against a potential loss resulting from an inadvertent disclosure of a SSN. Private industry can build these risks into its business plan, and price its products accordingly.**

From:  
Ed Sniffen  
Dept of Law  
4/20/2007

4. The state is routinely treated differently than private business when liability is concerned. For example, the state enjoys "discretionary function" immunity for certain tort actions (AS 09.50.250); and state employees have qualified immunity for performing duties required by statute. The state is also exempt of punitive damage awards. The policy behind treating the state differently is clear, and does not create a "double standard."

\* HB 65 will, therefore, create liability where none currently exists, and will have the effect of amending state law that currently provides immunity to the state.

\* The state is always an attractive target for litigation. If the legislature creates state liability through this bill, the state will get sued. Regardless of the merit of any lawsuit, it will take significant resources to defend the lawsuit.

\* Because the state must utilize, process, and maintain records that can contain personal information on hundreds of thousands of state residents, just one breach of the requirements in HB 65 could result in billions of dollars of exposure.

\* The state has no objection to requiring its agencies to comply with the provisions of HB 65. But failure to comply should be addressed through the political process, not the legal process.

The Department of law proposes the following amendment to Sec. 45.48.480(b) and (c):

(b) An individual may bring a civil action in court against a person, other than a governmental agency, who knowingly violates AS 45.48.400 – 45.48.430 and may recover actual damages or \$5,000, whichever is greater, and court costs and attorney fees allowed by the rules of court.

(c) A person, other than a governmental agency, who knowingly violates AS 45.48.400 – 45.48.430 is guilty of a class A misdemeanor.

These changes will address the Department's concerns with liability.

Good morning Chairman Olson and other members of the committee

My name is Craig Dahl and I am the President & CEO for Alaska Pacific Bank, which is headquartered here in Juneau. Alaska has been my home for more than 45 years, which includes 34 years of community banking. I am a member and past president of the Alaska Bankers Association and a member of the American Bankers Association Government Relations Council for the past 18 years.

I am here this morning representing the Alaska Bankers Association and my comments will be made in reference to HB 65.

You should have all received a copy of a letter written to chairman Coghill by David Lawer, who is the current President of the Alaska Bankers Association but I would like to reinforce the message contained in Mr. Lawer's letter.

The Alaska Bankers Association, which represents all 9 banks in the state, supports the intention of HB 65 to protect customers' financial information, recognizing the legislature's desire to address these critical issues.

At the same time, we believe it is in the best interest of the bill itself to track as close to federal regulations as possible, and where appropriate, clearly acknowledge the federal preemption for those operating under those regulations.

Our industry already operates under more than 20 federal regulations all intended to address the issues surrounding the transfer and protection of customer information. The most prominent ones for the banks are:

- **Gramm-Leach-Bliley Act of 1999**
- **Fair and Accurate Credit Transactions Act of 2003**
- **Fair Credit Reporting Act**
- **The Electronic Fund Transfer Act**
- **The Right to Financial Privacy Act**
- **The Telephone Consumer Protection Act**

**This binder is one of our desk references for "Safeguarding Customer Information"**

Most relevant to the discussion on HB65 is **Section V of the Gramm-Leach-Bliley Act**, and the **Fair and Accurate Credit Transactions Act..or FACT Act**.

The **FACT Act** was a complex piece of federal legislation passed in November of 2003 that involved the efforts of the American Bankers Association, The Credit Union National Association, the Federal Reserve, The Securities and Exchange Commission and the Federal Trade Commission. This ACT addressed several key issues:

- Provided for the full and permanent reauthorization of seven existing key national uniformity provisions
- Added two national uniformity provisions for identity theft prevention measures
- Established permanent preemption of state law related to the nine uniformity provisions which were:
  - Fraud alerts
  - Red flag guidelines
  - Blocking of information resulting from identity theft
  - The truncation of credit card and debit card account numbers
  - The truncation of Social Security Numbers
  - Prohibition of the sale or transfer of debt caused by identity theft
  - Notice by debt collectors of fraudulent information
  - Coordination of identity theft complaint investigations
  - Prevention of re-pollution of consumer reports
- The Act also acknowledged the states' ability to address matters outside of these nine areas of national uniformity such as laws governing the sale or use of SSN's, alerts for database hacking and increased penalties for identity theft.

The point to be made is simply to assure the committee and those working on this bill, that the financial services industry is fully engaged in this process. At the very core of our industry is "**customer confidence**" with a common commitment to our customers to protect their financial resources and their privacy while meeting their expectations for service.

The Alaska Bankers Association has reviewed HB 65, and reduced our recommended changes to three amendments as outlined in Mr. Lawer's letter. We believe these changes will enable financial institutions to protect the privacy of our customers without inhibiting our ability to provide our customers with the benefits resulting from the responsible transfer of information – i.e. fraud protection, quick credit approvals and convenient ATM services

**The first amendment** addresses the need for consistent security breach requirements;

- On page 2, line 13, after "breach," insert:  
"made a reasonable determination as to whether misuse of the information has occurred or is likely to occur, and if so,"
- On page 3, strike lines 23 and 24 in their entirety
- On page 3, line 25, strike "(d)" and insert "(c)" in its place.
- On page 6, between lines 14 and 15, insert an entirely new section as follows:  
"**Sec. 45.48.095. Exemption.** This chapter does not apply to an information collector who is subject to 15 U.S.C. 6801-6827 (Gramm-Leach-Bliley Financial Modernization Act)."

**The second amendment** suggests language so that restrictions on the use of the SSN# would not inadvertently inhibit an institution to protect the customer;

- On page 19, strike lines 24 – 31 in their entirety.
- On page 20, strike lines 1- 18 in their entirety.
- In their place insert the following:  
Sec. 45.48.420. Sale, lease, loan, trade, rental or disclosure. A person may not sell, lease, loan, trade, rent or otherwise intentionally disclose an individual's social security number to a third party unless (i) the person or entity has the written consent to the disclosure from the individual, or (ii) the disclosure is required or authorized by federal or state law. Nothing in this paragraph prohibits the sale,

transfer or disclosure of an individual's Social Security number to a third party if the sale, transfer or disclosure has no independent economic value and is incidental to a larger transaction and is necessary for the purpose of verifying the identity of the individual.

**The third amendment** offers language to conform this section to federal law and other state laws to prevent abuse of this provision.

On page 17, replace lines 25-26 with the following:

"...immediately (1) initiate an investigation in to the accuracy of such information, (2) indicate that the accuracy of such information has been disputed in any subsequent consumer report containing such information pending completion of the reinvestigation; and, if such information cannot be reverified within thirty days, correct or delete such information in any subsequent consumer reports."

So on behalf of the Alaska Bankers Association, I would urge the committee to consider these amendments as presented.

Thank you for the opportunity to comment on this bill.

Craig E. Dahl, President & CEO  
Alaska Pacific Bank

790-5101

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: HB065-DOA-ETS-3-26-07  
 Bill Version: HB 65  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: \*An Act relating to Breaches of Security Involving... RDU: Enterprise Technology Services  
 Component: Enterprise Technology Services  
 Sponsor: Reps. Coghill, Gara  
 Requester: \_\_\_\_\_ Component No.: 2082

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	275.0	319.0	319.0	319.0	319.0	319.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	1,765.6	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>2,040.6</b>	<b>319.0</b>	<b>319.0</b>	<b>319.0</b>	<b>319.0</b>	<b>319.0</b>

<b>CAPITAL EXPENDITURES</b>		0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	2,040.6	319.0	319.0	319.0	319.0	319.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1156 Receipt Supported Services	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>2,040.6</b>	<b>319.0</b>	<b>319.0</b>	<b>319.0</b>	<b>319.0</b>	<b>319.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HB65 has 2 primary components related to security breaches: 1) Preventative and 2) Remediation. This fiscal note addresses the Preventative component by providing funding to continue the department's efforts to secure the state's networks and data.

For the past two years, the department has been working on strengthening the security components of our network. We have installed Cisco Security Agent (CSA) on desktop computers and servers throughout the state. We are also working to deploy a demilitarized zone (DMZ) that places all of our databases behind two firewalls, with our public-facing servers deployed between the two firewalls. This effort is scheduled to be completed by June 2008.

Prepared by: Frank Bailey, Special Assistant II  
 Division: Department of Administration  
 Approved by: Kevin Prooks, Deputy Commissioner  
 Agency: Department of Administration

Phone: 269-6293  
 Date/Time: 3/26/04 12:00 PM  
 Date: 3/26/2007

**FISCAL NOTE**

**STATE OF ALASKA  
2007 LEGISLATIVE SESSION**

**BILL NO. HB 65** \_\_\_\_\_

**ANALYSIS CONTINUATION**

The third phase of this security effort is deployment of encryption hardware and software to protect our network as well as legacy data stored and processed on the state's mainframe computer. This fiscal note will provide funding for this final phase of security enhancements to insure that data used by state agencies to provide services is secure from known types of attack. This will be an ongoing effort as attackers have become more sophisticated over time.

Previous funding for security efforts is as follows:

FY05 Supplemental \$5,002,500  
FY06 Capital Project \$3,537,500  
FY07 Capital Project \$2,000,000  
FY08 Capital Request \$4,400,000

The amount requested in this fiscal note would have been requested as an FY09 Capital project, but passage of this legislation will require funding now with an anticipated project completion date of June 2008.

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: HB065-GOV-OMB-3-25-07  
 Bill Version: HB 65  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: All  
 Title Security breaches -- Identity theft RDU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Rep. Coghill Component No. \_\_\_\_\_  
 Requester House Labor and Commerce Committee

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

Estimate of any current year (FY2007) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation establishes a number of requirements and penalties relating to the protection and disclosure of personal information, such as social security numbers.

The bill, if enacted in its current form, could result in the imposition of extremely large financial penalties on the State of Alaska. Article 4 of the bill, relating to social security numbers, would allow individuals to sue the State of Alaska for damages of \$5,000 or actual damages, whichever is greater, in the event of a security breach resulting in disclosure of social security numbers.

Although the State is pursuing all prudent and practical security measures to protect (continued)

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676  
 Division Office of Management and Budget Date/Time 3/25/07 10:30 AM  
 Approved by: Karen J. Rehfeld, Director Date 3/25/2007  
 Agency Office of Management and Budget

## FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

BILL NO. HB 65

### ANALYSIS CONTINUATION

personal information, it is possible that despite these security measures, a security breach could occur that would result in disclosure of over 500,000 records containing individual social security numbers. Under this scenario, an attorney could file a class action lawsuit against the State seeking damages of **\$2.5 billion** or more (500,000 records multiplied by damages of \$5,000 per individual). Even if the State settled such a case for 10 cents on the dollar, the cost to the State would still be \$250 million.

A number of State agencies are required, in order to provide necessary services to Alaskans, to maintain databases containing personal information on hundreds of thousands of Alaskans. In some cases, these databases contain historical information that includes personal information on millions of people. Agencies that are required to maintain databases on large numbers of Alaskans include the Division of Motor Vehicles, the Division of Elections, the Permanent Fund Division, the Department of Health and Social Services, the Department of Public Safety, and the Department of Labor and Workforce Development.

The legislation would also require notification of affected individuals in the event of a security breach resulting in disclosure of personal information. Under a scenario in which the State was required to notify 500,000 individuals by mail, the cost would be over \$100,000 for postage at bulk rates, plus any overtime and/or contractual assistance required to determine the affected individuals and locate current addresses.

While notification of individuals affected by disclosure of personal information is an appropriate practice, certain requirements of the bill, such as written notice (versus e-mail where possible), may increase the cost of such notification.

**SECTIONAL**  
**CS for House Bill 65**  
(25-L.S.0311(C))

**Article 1. Breach of Security Involving Personal Information**

1. Sec. 45.48.010 Disclosure of breach of security

Describes what a person who owns or uses personal information must do in case of a breach of information.

2. Sec. 45.48.020 Allowable delay in notification

Describes reasons for delaying notification of a breach of information.

3. Sec. 45.48.030 Methods of notice

Describes the methods to be used to notify a person that there has been a breach of information. Lists exceptions to the methods of notification relating to cost and number of consumers to be notified.

CS Page 3 – Line 4& 5 Changes the cost of notification from \$250,000 to \$150,000 and the number of residents affected from 500,000 to 300,000.

4. Sec. 45.48.04 Notification of certain other agencies

Describes when it is necessary to notify other consumer reporting agencies about a breach. There are exceptions to these requirements are also set out.

5. Sec. 45.48.050 Exception of employees and agents

Lists exceptions for acquisition of personal information by an employee or agent of an information collector.

6. Sec. 45.48.060 Waivers

No waivers of these sections are allowed.

7. Sec. 45.48.070 Treatment of certain breaches

A breach of information by an information recipient must be reported to the information distributor so they can comply with the notification requirements if the breach occurred to an information system maintained by the information distributor.