

GIFT CERTIFICATES

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House Bill 4050

Sponsor: Rep. Fred Miller

Committee: Commerce

Complete to 5-18-07

A SUMMARY OF HOUSE BILL 4050 AS INTRODUCED 1-22-07

The bill would amend the Michigan Consumer Protection Act (MCL 445.903) to prohibit retailers of goods and services from engaging in certain practices in connection with gift certificates.

Generally, the bill would prohibit the following:

- Refusing to accept a gift certificate in payment for goods and services used or bought for use primarily for personal, family, or household purposes, including goods or services advertised on sale or as part of a liquidation or closeout. (This does not apply if the gift certificate limits the time period of its use and is presented after the expiration of that period.)
- Restricting the holder of the certificate from using it consistent with its terms and conditions.
- Altering any term or condition after the certificate is issued.
- Failing to disclose any terms or conditions to a prospective purchaser. (The bill specifies how these terms and conditions are to be disclosed.)
- Failing to disclose any terms or conditions by printing them either on the certificate; on the envelope or packaging (if a toll-free number is on the certificate); or in a separate printed document.
- Failing, in any advertisement or promotion, to disclose through a notice that the certificate has terms or conditions.
- Assessing retroactive fees against a certificate.
- Assessing monthly service fees against the balance of a certificate before the 13th month of dormancy. ("Dormancy" means a period of time when the certificate is not used.)

- Refusing to apply a certificate or the balance of a certificate to the purchase price in cases where the purchase price of goods or services exceeds the value of the certificate or balance.

The bill defines "terms and conditions" so that the phrase includes, but is not limited to, any expiration date, any fees assessed against a balance, and fees charged to replace a lost, destroyed, or stolen certificate.

The term "gift certificate" would not include: an electronic payment device linked to a deposit account; an electronic payment device used to access medical care spending accounts; prepaid discount cards if an expiration date is clearly and conspicuously disclosed; a payroll card linked to a deposit account; a gift certificate sold at a volume discount to an employee, a nonprofit, or an educational institution for fund-raising purposes; or a gift certificate distributed to a consumer or employee under an awards, rewards, loyalty, or promotional program (if there is no charge to the consumer or employee).

FISCAL IMPACT:

A fiscal analysis is in process.

Legislative Analyst: Chris Couch
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.