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Senate Bill 387 (Substitute S-2 as reported)
Senate Bill 388 (Substitute S-2 as reported)
Sponsor: Senator Nancy Cassis
Committee: Commerce and Tourism

CONTENT

Senate Bill 387 (S-2) would amend the Michigan Consumer Protection Act to make it an unlawful trade practice for a person engaged in the retail sale of goods or services to do any of the following in connection with a gift certificate or gift card for retail goods or services:

- Issue to a consumer a gift certificate or card that expired in less than five years.
- Fail to disclose the expiration date by conspicuously printing it on the gift certificate or card, if the certificate or card had an expiration date.
- Fail to honor a gift certificate or card after it was issued and before its expiration date, if any.
- Charge an inactivity fee or other similar service fee if the consumer did not use a gift certificate or card.

"Gift certificate or gift card" would not include a certificate or card issued or sponsored by a financial institution or usable at multiple sellers of goods or services. (Separate subsidiaries of the same parent entity or separate franchisees of the same franchisor would not be considered multiple sellers.)

Senate Bill 388 (S-2) would amend the Uniform Unclaimed Property Act to specify that a gift certificate, gift card, or credit memo would be presumed abandoned if it were not claimed or used five years after becoming payable or distributable, or if it were partially used or claimed but subsequently not claimed or used for five years.

Under the Act, a gift certificate or credit memo issued in the ordinary course of an issuer's business that remains unclaimed by the owner for more than five years after becoming payable or distributable is presumed abandoned. The bill provides, instead, that a gift certificate, gift card, or credit memo would be presumed abandoned if it were not claimed or used for a period of five years after becoming payable or distributable or were used or claimed one or more times without exhausting its full value, but subsequently not claimed or used for an uninterrupted period of five years. A gift certificate or gift card would be considered to have been claimed or used if there were any transaction processing activity on the certificate or card including redeeming, refunding, or adding value to it. Activity initiated by the card issuer, including assessing inactivity fees or similar service fees, would not constitute transaction processing activity.

The bill specifies that the Act would not apply to a gift certificate or gift card if no inactivity fee or similar service fee were assessed against the certificate or card.

The bills are tie-barred and would take effect on April 1, 2008.

MCL 445.903 (S.B. 387)
567.222 et al. (S.B. 388)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 387 (S-2). Any additional costs associated with enforcing the Michigan Consumer Protection Act or promulgating any new rules to implement it due to this proposed change should be absorbable within the Office of Attorney General's existing budget.

Senate Bill 388 (S-2). The bill would have no fiscal impact on State or local government.

Date Completed: 6-6-07

Fiscal Analyst: Joe Carrasco
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.