

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Lori Ehrlich

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to Consumer Gift Cards.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|-------------------|-------------------|
| Lori Ehrlich | 8th Essex |
| John V. Fernandes | 10th Worcester |
| Lida E. Harkins | 13th Norfolk |
| David P. Linsky | 5th Middlesex |
| William M. Straus | 10th Bristol |
| Carlo P. Basile | 1st Suffolk |

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO CONSUMER GIFT CARDS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Chapter 93A of the General Laws is hereby amended by adding the following section:-
- 2 Section 12. (a) In this section the term "gift card" shall mean a prefunded record evidencing a promise
3 that the issuer will provide goods or services to the holder of the record in the amount shown in the
4 record. A gift card does not include gift certificates distributed by the issuer to a consumer pursuant to
5 an awards, loyalty, or promotional program without any money or other thing of value given in
6 exchange for the gift certificate by the consumer.
- 7 (b) A person may not sell a gift card: (1) that has an expiration date; (2) that has a face value that
8 declines as a result of the passage of time or the lack of use of the card; or (3) that has a fee.
- 9 (c) A gift card with a remaining value of \$10 or less may be redeemed in cash for its cash value.
- 10 (d) The value paid by a purchaser of a gift card to the issuer of the gift card is trust property held by the
11 issuer, or its successors in interest, as trustee for the benefit of the holder of the gift card.

12 (e) The total value represented by all gift cards shall be held in a trust in either a (1) separate non-
13 interest bearing account, in any bank or lending institution subject to regulation by this state or any
14 agency of the United States.; or (2) in a separate interest bearing account, in any bank or lending
15 institution subject to regulation by this state or any agency of the United States government, in which
16 case the issuer shall receive and collect interest; provided, that in either case the issuer shall not
17 commingle such gift card monies with any other funds, and shall maintain records allocating such
18 monies to individual beneficiaries

19 (f) This section does not alter the terms of a gift card.

20 (g) This section does not require, unless otherwise required by law, the issuer of a gift card to: (1)
21 redeem a gift card for cash, unless the remaining value is \$10 or less; or (2) replace a gift card that has
22 been lost or stolen.

23 (h) This section does not create an interest in favor of a beneficiary, or to the legal representative of a
24 beneficiary of the gift card in any specific property of the issuer.

25 (i) This section does not require the issuer of a gift card to pay interest on the value of the gift card held
26 in trust under this section, unless otherwise provided by law.

27 SECTION 2. Section 1 of chapter 255D of the General Laws, as appearing in the 2006 Official Edition, is
28 hereby amended by striking out the definition of "Gift certificate" and inserting in place thereof the
29 following definition:-

30 "Gift card", a writing identified as a gift card purchased by a buyer for use by a person other than the
31 buyer not redeemable in cash and usable in its face amount in lieu of cash in exchange for goods or
32 services supplied by the seller. A gift card shall include an electronic card with a banked dollar value, a
33 merchandise credit, a certificate where the issuer has received payment for the full face value for the

34 future purchase or delivery of goods or services and any other medium that evidences the giving of
35 consideration in exchange for the right to redeem the certificate, electronic card or other medium for
36 goods, food, services, credit or money of at least an equal value. A gift card shall not include pre-paid
37 calling arrangements, as defined in section 1 of chapter 64H, or any electronic card usable with multiple
38 unaffiliated sellers of goods or services.

39 SECTION 3. Said section 1 of said chapter 255D, as so appearing, is hereby further amended by striking
40 out, in line 26, the word "certificate" and inserting in place thereof the following word:- card.

41 SECTION 4. Said section 1 of said chapter 255D, as so appearing, is hereby further amended by striking
42 out, in line 42, the word "certificate" and inserting in place thereof the following word:- card.

43 SECTION 5. Chapter 266 of the General Laws is hereby amended by striking out section 75C and
44 inserting in place thereof the following section:-

45 Whoever sells or offers to sell a gift card as defined in section 12 of chapter 93A which imposes a time
46 limit within which such gift may be redeemed, shall be punished by a fine of not more than \$300.

47 Whoever, after having sold a gift card refuses to redeem the card shall be punished by a fine of not
48 more than \$300.

49 SECTION 6. This act applies to gift cards sold on or after November 1, 2009.