

SENATE, NO. 2345

AN ACT PROVIDING UPDATES TO THE GIFT CERTIFICATE LAW

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. Section 1 of chapter 255D of the General Laws, as appearing in the 2004
2 official edition, is hereby amended by striking out lines 11 to 22 in their entirety and
3 inserting in place thereof the following:- "Gift certificate", a writing identified as a gift
4 certificate purchased by a buyer for use by a person other than the buyer not redeemable
5 in cash and usable in its face amount in lieu of cash in exchange for goods or services
6 supplied by the seller. A gift certificate shall include an electronic card with a banked
7 dollar value, a merchandise credit, a certificate where the issuer has received payment for
8 the full face value for the future purchase or delivery of goods or services and any other
9 medium that evidences the giving of consideration in exchange for the right to redeem the
10 certificate, electronic card or other medium for goods, food, services, credit or money of
11 at least an equal value. A gift certificate shall not include pre-paid calling arrangements,
12 as defined in section 1 of chapter 64H of the General Laws, or any electronic card usable
13 with multiple unaffiliated sellers of goods or services.

14 SECTION 2. Section 75C of chapter 266 of the General Laws, as appearing in the 2004
15 official edition, is hereby amended by inserting after section 75C the following new
16 sections:-

17 Section 75D. Whoever sells or offers to sell a gift certificate as defined under section 1 of
18 chapter 255D which imposes dormancy fees, latency fees, administrative fees, periodic

19 fees, service fees or other fees that have the effect of reducing the total amount for which
20 the holder may redeem a gift certificate, shall be punished by a fine of not more than
21 three hundred dollars per incident.

22 Section 75E. Whoever sells or offers to sell a gift certificate as defined under section 1 of
23 chapter 255D which imposes any fees or charges including purchase fees, activation fees,
24 renewal fees, or cancellation fees, shall notify a consumer of such fees in writing on the
25 packaging of said gift certificate or gift certificate or both. Failure to print said fees shall
26 be punished by a fine of not more than three hundred dollars per incident.

27 Section 75F. Whoever redeems a gift certificate as defined under section 1 of chapter
28 255D and deducts a gratuity without the consent of the owner of the gift card or gift
29 certificate shall be punished by a fine of not more than three hundred dollars per incident.

30 SECTION 3. Section 5D of chapter 200A of the General Laws in lines 13 to 16 by
31 striking out the following:- “Notwithstanding any general or special law to the contrary,
32 upon a gift certificate being redeemed for up to 90 per cent of its face value, a consumer
33 shall make an election to receive the balance in cash or to continue with the gift
34 certificate.” inserting in place thereof the following:- “Notwithstanding any general or
35 special law to the contrary, upon a gift certificate, which is of a type whereby the owner
36 is unable to or prohibited from adding value to it after it has been sold or issued, being
37 redeemed for 90 per cent or more of its face value, a consumer shall make an election to
38 receive the balance in cash or to continue with the gift certificate. Notwithstanding any
39 general or special law to the contrary, upon a gift certificate, which is of a type whereby
40 the owner is able to or permitted to add value to it after it has been sold or issued, being

41 redeemed to the point where its value remaining on said gift certificate is five dollars or
42 less, a consumer shall make an election to receive the balance in cash or to continue with
43 the gift certificate. When a zero balance is reached on a gift certificate, whereby the
44 owner can add to it after it has been sold or issued, then gift certificate is deemed void
45 and no longer redeemable.”

