

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

SENATE BILL 818

4
5 By: Senator Madison
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For An Act To Be Entitled

9 AN ACT TO REQUIRE CERTAIN DISCLOSURES ON GIFT
10 CARDS AND GIFT CERTIFICATES; TO PROVIDE PENALTIES
11 FOR FAILURE TO MAKE THE REQUIRED DISCLOSURES; TO
12 INCLUDE GIFT CARDS AND GIFT CERTIFICATES UNDER
13 THE UNCLAIMED PROPERTY ACT; TO CREATE A
14 MISCELLANEOUS FUND FOR UNCLAIMED GIFT CARDS AND
15 UNCLAIMED GIFT CERTIFICATES; AND FOR OTHER
16 PURPOSES.

Subtitle

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19 TO REQUIRE CERTAIN DISCLOSURES ON GIFT
20 CARDS AND GIFT CERTIFICATES; TO PROVIDE
21 PENALTIES FOR FAILURE TO MAKE REQUIRED
22 DISCLOSURES; TO PROVIDE FOR A
23 MISCELLANEOUS FUND FOR UNCLAIMED GIFT
24 CARDS AND GIFT CERTIFICATES.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code Title 4 is amended to add an additional
30 chapter to read as follows:

31 4-112-101. Definitions.

32 As used in this chapter:

33 (1)(A) "Gift card or gift certificate" means a stored value card,
34 smart card, or similar instrument or device that enables a person to obtain
35 goods, services, or anything else of value through the use of value stored on
36 the card, instrument, or device.



1 (B) "Gift card or gift certificate" does not include a card or
 2 certificate:

3 (i) Issued as part of an award, loyalty, promotional,
 4 rebate, incentive, or reward program; and

5 (ii) For which the issuer does not receive money or any
 6 other value; and

7 (2) "Service fee" means any charge imposed on the basis of inactivity
 8 or after the sale of the gift card or gift certificate.

9
 10 4-112-102. Disclosures required.

11 (a) The issuer of a gift card or gift certificate shall disclose the
 12 following information on the gift card or gift certificate:

13 (1) The date of expiration of the gift card or gift certificate;

14 (2) The holder of a gift card or gift certificate may redeem the
 15 value from the issuer unless the gift card or gift certificate has expired;
 16 and

17 (3) No service fee may be assessed that reduces the value of the
 18 gift card or gift certificate.

19 (b) The disclosures required in subsection (a) of this section and any
 20 other terms and conditions pertaining to the use of the gift card or gift
 21 certificate shall be printed in 10-point font at a minimum.

22
 23 4-112-103. Penalty.

24 (a)(1) A violation of the provisions of this chapter by a gift card or
 25 gift certificate issuer shall constitute an unfair and deceptive act or
 26 practice as defined by the Deceptive Trade Practices Act, § 4-88-101 et seq.

27 (2) All remedies, penalties, and authority granted to the
 28 Attorney General under the Deceptive Trade Practices Act, § 4-88-101 et seq.,
 29 shall be available to the Attorney General for the enforcement of this
 30 chapter.

31 (b) Nothing in this chapter shall limit the rights or remedies that
 32 are otherwise available to the holder of a gift card or gift certificate
 33 under any other law.

34 (c) The obligations under this chapter are cumulative and do not limit
 35 the obligations imposed under any other state or federal law.

1 SECTION 2. Arkansas Code § 18-28-201(13), concerning the definition of
2 "property", is amended to read as follows:

3 (13)(A) "Property" means tangible property described in § 18-28-
4 203 or a fixed and certain interest in intangible property that is held,
5 issued, or owed in the course of a holder's business, or by a government,
6 governmental subdivision, agency, or instrumentality, and all income or
7 increments therefrom. The term includes property that is referred to as or
8 evidenced by:

9 (i) money, a check, draft, deposit, interest, or
10 dividend;

11 (ii) credit balance, customer's overpayment,
12 security deposit, refund, credit memorandum, unpaid wage, unused ticket, gift
13 card, gift certificate, mineral proceeds, or unidentified remittance;

14 (iii) stock or other evidence of ownership of an
15 interest in a business association or financial organization;

16 (iv) a bond, debenture, note, or other evidence of
17 indebtedness;

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

20 (vi) an amount due and payable under the terms of an
21 annuity or insurance policy, including policies providing life insurance,
22 property and casualty insurance, workers' compensation insurance, or health
23 and disability insurance; and

24 (vii) an amount distributable from a trust or
25 custodial fund established under a plan to provide health, welfare, pension,
26 vacation, severance, retirement, death, stock purchase, profit sharing,
27 employee savings, supplemental unemployment insurance, or similar benefits.

28 (B) "Property" does not include ~~gift certificates, gift~~
29 ~~cards~~, in-store merchandise credits, or layaway accounts issued or maintained
30 by any person in the business of selling tangible personal property at retail
31 and such items shall not be subject to this subchapter.

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33 SECTION 3. Arkansas Code § 18-28-202(a), concerning presumptions of
34 abandonment, is amended to add an additional subdivision to read as follows:

35 (14) all other property, five (5) years after the owner's right
36 to demand the property or after the obligation to pay or distribute the

1 property arises, whichever first occurs; ~~and~~

2 (15) unclaimed property payable or distributable in the course
 3 of a demutualization of an insurance company five (5) years after the earlier
 4 of:

5 (A) the date of last contact with the policy holder; or

6 (B) the date the property became payable or distributable;

7 and

8 (16) a gift card or gift certificate, unused for a period of two
 9 (2) years.

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 11 SECTION 4. Arkansas Code § 18-28-213(a), concerning the deposit of
 12 unclaimed property funds, is amended to read as follows:

13 (a)(1) Except for those funds received from gift cards and gift
 14 certificates, All all funds received under this subchapter, including the
 15 proceeds from the sale of abandoned property, shall be deposited by the
 16 administrator in a special trust fund to be known as the "Unclaimed Property
 17 Proceeds Trust Fund", from which he shall make prompt payment of claims duly
 18 allowed by him as hereinafter provided. Such funds shall be deposited in
 19 accounts in one (1) or more financial institutions authorized to do business
 20 in this state to be administered in accordance with the laws of this state
 21 pertaining to the appropriation, administration, and expenditure of cash
 22 funds. Before making the deposit, he shall record the name and last known
 23 address of each person appearing from the holder's reports to be entitled to
 24 the abandoned property, and the name and last known address of each insured
 25 or annuitant, and, with respect to each policy or contract listed in the
 26 report of a life insurance corporation, its number, the name of the
 27 corporation, and the amount due. The record shall be available for public
 28 inspection at all reasonable business hours.

29 (2) The administrator shall deposit funds received from gift
 30 cards and gift certificates into the Child Maltreatment Fund.

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 32 SECTION 5. Arkansas Code Title 19, Chapter 5, Subchapter 12 is amended
 33 to add an additional section to read as follows:

34 19-5-1230. Child Maltreatment Fund.

35 (a) There is created on the books of the Treasurer of State, the
 36 Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous

1 fund to be known as the "Child Maltreatment Fund".

2 (b)(1) All moneys collected from an unclaimed gift card or an
3 unclaimed gift certificate under § 18-28-213 shall be deposited by the
4 Auditor of State into the State Treasury to the credit of the fund as
5 miscellaneous revenues.

6 (2) The fund shall also consist of any other revenues as may be
7 authorized by law.

8 (c) The fund shall be used by the Division of Children and Family
9 Services of the Department of Health and Human Services for the operation and
10 improvement of services for maltreated children.

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