

CHAPTER 54**(SB 83)**

AN ACT relating to gift cards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 367.890 is amended to read as follows:

- (1) "Gift card," as used in this section, means a certificate, electronic card, or other medium issued by a merchant that evidences the giving of consideration in exchange for the right to redeem the certificate, electronic card, or other medium for goods, food, services, credit, or money of at least an equal value. "Gift card" includes any electronic card issued by a merchant with a monetary value where the issuer has received payment for the full monetary value for the future purchase or delivery of goods or services and any certificate issued by a merchant where the issuer has received payment for the full monetary face value of the certificate for the future purchase or delivery of goods and services. "Gift card" does not include a prepaid calling card used to make telephone calls, or a general-use, prepaid card or other electronic payment device that is issued by a bank or other financial institution that is usable at multiple, unaffiliated merchants, or at automated teller machines, or both, or a gift card issued by a merchant for a promotional program for which no separate monetary consideration is given.
- (2) Subject to subsection (5) of this section, no person or entity shall sell a gift card containing an expiration date that is less than one (1) year after the date the gift card is issued.
- (3) No person or entity shall charge service charges or fees relative to that gift card, including dormancy fees, latency fees, or administrative fees, that have the effect of reducing the total amount for which the holder of the gift card may redeem the gift card until the expiration date on the card has expired.
- (4) A gift card sold without an expiration date printed on the front or back of the card is valid until redeemed or replaced with a new gift card.
- (5) If the expiration date on the card is not less than one hundred twenty (120) days from the date of issue, subsection (2) of this section does not apply to any of the following gift cards:
 - (a) ~~{Distributed by the issuer to a consumer pursuant to an awards, loyalty, or promotional program without any money or anything of value being given in exchange for the gift card by the consumer;~~
 - ~~(b)~~—Sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes;
 - ~~(b)~~~~(c)~~ Sold by a nonprofit or charitable organization for fundraising purposes; or
 - ~~(c)~~~~(d)~~ Given by an employer to an employee, if use of the card is limited to the employer's business establishment. As used in this paragraph, business establishment may include a group of merchants that are affiliated with that business establishment.
- (6) Any person who violates subsection (3) of this section is liable to the holder of the card for any amount that the redemption value of the gift card was reduced, any court costs incurred, and reasonable attorney's fees.

Signed by Governor April 1, 2010.