

FIRST REGULAR SESSION

SENATE BILL NO. 371

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRAY.

Read 1st time February 12, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1833S.011

AN ACT

To repeal section 447.505, RSMo, and to enact in lieu thereof two new sections relating to gift certificates, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 447.505, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 407.1175 and 447.505, to read as
3 follows:

**407.1175. 1. For the purposes of this section, the term "gift
2 certificate" shall mean any tangible record evidencing a promise by the
3 seller or issuer of the record that goods or services will be provided to
4 the owner of the record to the value shown in the record. Gift
5 certificate shall include, but is not limited to, a gift card, stored-value
6 card, store card, or a similar record or card that contains a
7 microprocessor chip, magnetic stripe, or other means for the storage of
8 information, and for which that value is decreased upon each use. The
9 term "gift certificate" shall not include:**

10 **(1) Certificates distributed to a consumer pursuant to an awards,
11 loyalty, or promotional program without any money or other thing of
12 value being given in exchange for the certificate by the consumer; and**

13 **(2) Certificates sold below face value at a volume discount to
14 employers or to nonprofit and charitable organizations for fundraising
15 purposes and whose expiration dates are not less than thirty days after
16 the date of the sale.**

17 **2. It shall be unlawful for any person or business entity to sell a
18 gift certificate that is subject to an expiration date or a service fee or**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 **charge of any kind, including, but not limited to, a service fee for**
20 **dormancy or inactivity.**

21 **3. At no time shall a gift certificate be considered abandoned**
22 **under sections 447.500 to 447.595 or otherwise be subject to the**
23 **provisions of sections 447.500 to 447.595, RSMo.**

24 **4. Violations of this section shall be considered unfair**
25 **merchandising practices subject to the penalties in section 407.020.**

447.505. The following property held or owing by a banking or financial
2 organization or by a business association is presumed abandoned; provided,
3 however, that neither this section nor any other provision of sections 447.500 to
4 447.595 shall apply to an instrument issued as an offer to settle a claim when
5 failure to present the instrument for payment may be deemed a refusal of the
6 offer to settle:

7 (1) Any deposit held in this state with a banking organization, together
8 with any interest or dividend thereon that would be due had the owner not
9 abandoned the account, excluding any charges that may lawfully be withheld,
10 unless the owner has, within seven years or five years as provided in section
11 447.536:

12 (a) Increased or decreased the amount of the deposit, or presented the
13 passbook or other similar evidence of the deposit for the crediting of interest; or

14 (b) Corresponded in writing with, or accepted mail from, the banking
15 organization concerning the deposit; and the term "accepted mail from the
16 banking organization" shall mean the banking organization did send
17 correspondence in writing to the owner by first class mail postage prepaid,
18 marked "Address Correction Requested", and such correspondence was not
19 returned by the post office; or

20 (c) Otherwise indicated an interest in the deposit as evidenced by a
21 memorandum on file with the banking organization;

22 (2) Any funds paid in this state toward the purchase of shares or other
23 interest in a financial organization, or any deposit made therewith in this state,
24 and any interest or dividends thereon that would be due had the owner not
25 abandoned the account, excluding any charges that may lawfully be withheld,
26 unless the owner has within seven years or five years as provided in section
27 447.536:

28 (a) Increased or decreased the amount of the funds or deposit, or
29 presented an appropriate record for the crediting of interest or dividends; or

30 (b) Corresponded in writing with, or accepted mail from, the financial
31 organization concerning the funds or deposit; and the term "accepted mail from
32 the financial organization" shall mean the financial organization did send
33 correspondence in writing to the owner by first class mail postage prepaid,
34 marked "Address Correction Requested", and such correspondence was not
35 returned by the post office; or

36 (c) Otherwise indicated an interest in the funds or deposit as evidenced
37 by a memorandum on file with the financial organization;

38 (3) Any sum payable on checks certified in this state or on written
39 instruments issued in this state on which a banking or financial organization or
40 business association is directly liable, including, by way of illustration but not of
41 limitation, certificates of deposit, drafts, money orders, and traveler's checks,
42 that, with the exception of traveler's checks and money orders, has been
43 outstanding for more than seven years or five years as provided in section
44 447.536 from the date it was payable, or from the date of its issuance if payable
45 on demand, or, in the case of traveler's checks, that has been outstanding for
46 more than fifteen years from the date of its issuance, unless the owner has within
47 seven years or five years as provided in section 447.536, or within fifteen years
48 in the case of traveler's checks, corresponded in writing with the banking or
49 financial organization or business association concerning it, or otherwise
50 indicated an interest as evidenced by a memorandum on file with the banking or
51 financial organization or business association;

52 (a) No holder may deduct from the amount of any money order any
53 charges imposed by reason of the failure to present those instruments for
54 payment unless there is a valid and enforceable written contract between the
55 issuer and the owner of the property pursuant to which the issuer may impose
56 those charges and the issuer regularly imposes those charges and does not
57 regularly reverse or otherwise cancel those charges with respect to the
58 property. Disclosure of the amount of any such charges shall be deemed adequate
59 if set forth on the money order;

60 (b) No sum payable on a traveler's check, money order, or similar written
61 instrument (other than a third-party bank check) described in this subdivision
62 may be subjected to the custody of this state as unclaimed property unless:

63 a. The records of the issuer show that the traveler's check, money order,
64 or similar written instrument was purchased in this state;

65 b. The issuer has its principal place of business in this state and the

66 records of the issuer do not show the state in which the traveler's check, money
67 order, or similar written instrument was purchased; or

68 c. The issuer has its principal place of business in this state, the records
69 of the issuer show the state in which the traveler's check, money order, or similar
70 written instrument was purchased and the laws of the state of purchase do not
71 provide for the escheat or custodial taking of the property or its escheat or
72 unclaimed property law is not applicable to the property;

73 (4) Any funds or other personal property, tangible or intangible, removed
74 from a safe deposit box or any other safekeeping repository or agency or collateral
75 deposit box in this state on which the lease or rental period has expired due to
76 nonpayment of rental charges or other reason, or any surplus amounts arising
77 from the sale thereof pursuant to law, that have been unclaimed by the owner for
78 more than seven years or five years as provided in section 447.536 from the date
79 on which the lease or rental period expired;

80 (5) [Gift certificates,] Credit memos and credit balances that are
81 redeemable in merchandise only shall be reportable at a rate equal to sixty
82 percent of their respective face value. The state treasurer shall reimburse the
83 owner the full face value.

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