

FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

OFFICE OF THE CLERK

9 MAY 25 1999

SENATE

S. No. 3271

RECEIVED

Introduced by Senator Manuel "Lito" M. Lapid

The proliferation of cashless mode of payment other than credit and debit cards such as gift certificates, store gift cards, and similar medium like general-use prepaid cards exposes consumers to vague restrictions and conditions that benefit the issuers of these certificates and cards.

Gift certificates and store gift cards are becoming popular choices as gift items for practical reasons but a large chunk of this prepaid medium of exchange go unused because they get lost, expire or are subject to various restrictions that consumers end up not using. Others simply go half-used as these certificates and cards are good for single transactions only, a policy not made known upon purchase of the same or were not explicitly written in the certificates and cards.

Title III, Chapter I, Article 50 of the Consumer Act of the Philippines (RA 7394), provides for the regulation of sales acts and practices and prohibition against deceptive sales acts or practices.

This bill seeks to protect consumers against hidden fees, expiration dates and single-transactions-only policies that go with gift certificates, store gift cards, and general-use prepaid cards by implementing measures to protect them against deceptive, unfair and unconscionable sales acts and practices relating to gift certificates, store gift cards, and other general-use prepaid cards.

In view of the above, passage of this bill is most earnestly sought


MANUEL "LITO" M. LAPID
Senator 

OFFICE)
9 MAY 25 19:59

SENATE

S. No. 3271

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Introduced by Senator Manuel "Lito" M. Lapid

AN ACT
PROHIBITING DECEPTIVE, UNFAIR AND UNCONSCIONABLE SALES
ACTS AND PRACTICES RELATING TO GIFT CERTIFICATES, STORE
GIFT CARDS, AND OTHER GENERAL-USE PREPAID CARDS, PROVIDING
PENALTIES THEREFOR AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Title - This Act shall be known as the "Fair Gift Card Act of 2009"

SEC. 2. Declaration of Policy - It is the policy of the State to protect the interests of consumers, promote their general welfare and to establish standards of conduct for business and industry. As such, the State shall implement measures to protect consumers against deceptive, unfair and unconscionable sales acts and practices relating to gift certificates, store gift cards, and other general-use prepaid cards and provide programs on Information, Education and Communication Campaign (IEC) to educate the general public.

SEC. 3. Definition of Terms - For purposes of this Act, the following terms shall be defined as follows:

1) **DORMANCY FEE; INACTIVITY CHARGE OR FEE**- mean a fee, charge, or penalty for non-use or inactivity of a gift certificate, store gift card, or general-use prepaid card.

2) **GENERAL-USE PREPAID CARD**- means a card or other electronic payment device issued by a financial institution or licensed money transmitter that is redeemable at multiple, unaffiliated merchants or service providers, or automated teller machines, issued in a requested amount whether or not that amount may, at the option of the issuer, be increased in value or reloaded if requested by the holder, purchased or

loaded on a prepaid basis, and honored, upon presentation, by merchants for goods or services, or at automated teller machines.

3) GIFT CERTIFICATE- means a written promise that is presented as a gift that entitles the recipient to select merchandise of an indicated cash value redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo, issued in a specified amount and cannot be increased, purchased on a prepaid basis in exchange for payment and honored upon presentation by such single merchant or affiliated group of merchants for goods or services;

4) SERVICE FEE- means a periodic fee, charge, or penalty for holding or use of a gift certificate, store gift card, or general-use prepaid card.

5) STORE GIFT CARD- means a plastic card encoded with monetary value on a magnetic stripe or other electronic payment device that is an effective replacement for cash and have many applications for low-value retail purchases redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo, issued in a specified amount and may be reloaded or may not be increased in value, purchased on a prepaid basis in exchange for payment and honored upon presentation by such single merchant or affiliated group of merchants for goods or services;

SEC. 4. UNFAIR OR DECEPTIVE ACTS OR PRACTICES REGARDING GIFT CERTIFICATES, STORE GIFT CARDS, AND GENERAL-USE PREPAID CARDS.

(a) Prohibition on Imposition of Fees or Charges-

(1) IN GENERAL- Except as provided under paragraphs (2) through (4), it shall be unlawful for any person to impose, with respect to a gift certificate, store gift card, or general-use prepaid card, a dormancy fee, inactivity charge or fee, or a service fee.

(2) EXCEPTION- A dormancy fee, inactivity charge or fee, or service fee may be charged with respect to a gift certificate, store gift card, or general-use prepaid card if--

(A) such certificate or card has a remaining value of Php200.00 or less at the time such charge or fee is assessed;

(B) such charge or fee does not exceed Php50.00;

(C)(i) there has been no activity with respect to the certificate or card in the 24-month period ending on the date the charge or fee is imposed; and

(ii) the certificate or card was issued more than 24 months before such date;

(D) the holder of the certificate or card may reload or add value to the certificate or card; and

(E) the disclosure requirements of paragraph (3) are met.

(3) DISCLOSURE REQUIREMENTS- The disclosure requirements of this paragraph are met if--

(A) the gift certificate, store gift card, or general-use prepaid card clearly and conspicuously states in at least 10-point type--

(i) that a dormancy fee, inactivity charge or fee, or service fee may be charged;

(ii) the amount of such fee or charge;

(iii) how often such fee or charge may be assessed;

(iv) that such fee or charge may be assessed for inactivity; and

(v) that the same is valid for a single transaction only.

(B) the issuer of such certificate or card informs the purchaser of such charge or fee before such certificate or card is purchased, regardless of whether the certificate or card is purchased in person, over the Internet, or by telephone.

(4) EXCLUSION- The prohibition under paragraph (1) shall not apply to gift certificates that--

(A)(i) are distributed pursuant to an award, loyalty, or promotional program; and

(ii) with respect to which there is no money or other value exchanged;

or

(B)(i) expire not later than 30 days after the date they are sold; and

(ii) are sold below the face value of the certificate to an employer or to a non-profit or charitable organization for fund-raising purposes.

(b) Prohibition on Sale of Gift Certificates, Store Gift Cards, and General-Use Prepaid Cards with Expiration Dates-

(1) IN GENERAL- Except as provided under paragraph (2), it shall be unlawful for any person to sell or issue a gift certificate, store gift card, or general-use prepaid card that is subject to an expiration date.

(2) EXCEPTIONS- A gift certificate, store gift card, or general-use prepaid card may contain an expiration date if--

(A) the expiration date is not less than 5 years after the date on which the card is purchased; and

(B) the terms of expiration are prominently disclosed in all capital letters that are at least 10-point type.

SEC. 5. Penalties. - Any person, natural or juridical, found guilty of violating this Act shall upon conviction, be subject to a fine of not less than ten thousand pesos (Php10,000.00) but not more than fifty thousand pesos (Php50,000.00).

Any director, officer or agent of an association or corporation who shall authorize, order or perform any of the acts or practices constituting in whole or in part a violation of Section 4 of this Act, shall be subject to penalties to which that corporation may be subject.

In case the violation is committed by, or in the interest of a foreign juridical person duly licensed to engage in business in the Philippines, such license to engage in business in the Philippines shall immediately be revoked.

SEC. 6. Repealing Clause. - All laws, presidential decrees, executive orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 7. Separability Clause. - If, for any reason, any part or provision of this Act is declared unconstitutional or invalid, such parts not affected thereby shall remain in full force and effect.

SEC. 8. Effectivity. - This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,