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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2005-06**

(session year)

**Senate**

(Assembly, Senate or Joint)

**Committee on ... Veterans, Homeland Security,  
Military Affairs, Small Business and Government  
Reform (SC-VHSMASBGR)**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

## Senate

### Record of Committee Proceedings

#### **Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform**

##### **Senate Bill 392**

Relating to: the sale of gift certificates, gift cards, and other gift obligations and providing penalties.

By Senators Lazich, Brown, Roessler and Leibham; cosponsored by Representatives Nass, Suder, Hahn, Petrowski, Albers, Pettis and Ainsworth.

October 17, 2005      Referred to Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform.

January 3, 2006      **PUBLIC HEARING HELD**

Present:    (4)      Senators Brown, Zien, Kanavas and Breske.  
Absent:    (1)      Senator Wirch.

##### Appearances For

- Mary Lazich — State Senator, 28th State Senate District
- Laurie DeMoss, New Berlin — Representing herself.
- Michael Semmann, Madison — Wisconsin Bankers Association
- Michelle Kussow, Madison — Wisconsin Grocers Association

##### Appearances Against

- None.

##### Appearances for Information Only

- Doug Johnson, Madison — Wisconsin Merchants Federation and Midwest Hardware Association

##### Registrations For

- Steve Nass — State Representative, 31st State Assembly District
- Joe Leibham — State Senator, 9th State Senate District
- Brandon Scholz, Madison — Wisconsin Grocers Association
- Pete Hanson, Madison — Wisconsin Restaurant Association
- Pete Christianson, Madison — eFunds, Incorporated
- Pete Christianson, Madison — Marshall & Ilsley Bank

##### Registrations Against

- None.

January 24, 2006

**EXECUTIVE SESSION HELD**

Present: (5) Senators Brown, Zien, Kanavas, Breske and Wirch.

Absent: (0) None.

Moved by Senator Breske, seconded by Senator Zien that **Senate Bill 392** be recommended for passage.

Ayes: (5) Senators Brown, Zien, Kanavas, Breske and Wirch.

Noes: (0) None.

**PASSAGE RECOMMENDED, Ayes 5, Noes 0**

Daniel Lindstedt  
Committee Clerk

**SENATE BILL 392 (LRB -2851)**

An Act to amend 165.25 (4) (ar); and to create 100.172 of the statutes; relating to: the sale of gift certificates, gift cards, and other gift obligations and providing penalties.

**2005**

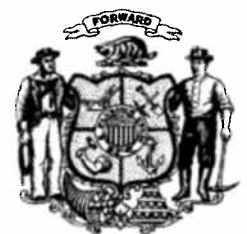
10-17.	S.	Introduced by Senators <b>Lazich, Brown and Roessler</b> ; cosponsored by Representatives <b>Nass, Suder, Hahn, Petrowski, Albers, Pettis and Ainsworth.</b>	
10-17.	S.	Read first time and referred to committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform .....	395
11-02.	S.	Fiscal estimate received.	
11-14.	S.	Senator Leibham added as a coauthor .....	456

**2006**

01-03.	S.	Public hearing held.	
01-24.	S.	Executive action taken.	
01-25.	S.	Report passage recommended by committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform, Ayes 5, Noes 0 .....	553
01-25.	S.	Available for scheduling.	
02-01.	S.	Referred to joint committee on Finance by committee on Senate Organization pursuant to Senate Rule 41 (1)(e), Ayes 5, Noes 0 .....	572
02-01.	S.	Withdrawn from joint committee on Finance and placed on calendar 2-2-2006 by committee on Senate Organization, pursuant to Senate Rule 41 (1)(e), Ayes 5, Noes 0 .....	572
02-02.	S.	Read a second time .....	575
02-02.	S.	Senate amendment I offered by Senator Carpenter ( <b>LRB f178</b> ) .....	575
02-02.	S.	Senate amendment I rejected, Ayes 17, Noes 16 .....	575
02-02.	S.	Ordered to a third reading .....	575
02-02.	S.	Rules suspended .....	575
02-02.	S.	Read a third time and <b>passed</b> , Ayes 33, Noes 0 .....	575
02-02.	S.	Ordered immediately messaged .....	578
02-07.	A.	Received from Senate .....	795
02-07.	A.	Read first time and referred to committee on Financial Institutions .....	796
02-22.	A.	Public hearing held.	
02-22.	A.	Executive action taken.	
02-27.	A.	Report concurrence recommended by committee on Financial Institutions, Ayes 9, Noes 6 .....	849
02-27.	A.	Referred to committee on Rules .....	849
05-02.	A.	Placed on calendar 5-4-2006 by committee on Rules.	
05-04.	A.	Placed on the calendar following Assembly Bill 498 .....	1118
05-04.	A.	Placed at the foot of the calendar .....	1119
05-04.	A.	Read a second time .....	1121
05-04.	A.	Assembly substitute amendment 1 offered by Representatives Krusick, Jeskewitz, Hubler and Freese ( <b>LRB s0753</b> ) .....	1121
05-04.	A.	Refused to table Assembly substitute amendment 1, Ayes 43, Noes 48 .....	1121
05-04.	A.	Laid on the table, Ayes 49, Noes 42 .....	1121
05-11.	A.	Failed to concur in pursuant to Senate Joint Resolution 1 .....	1134



# WISCONSIN STATE LEGISLATURE





# Mary Lazich

Wisconsin State Senator  
Senate District 28

Senate Committee on **Veterans, Homeland Security, and Military Affairs,**  
**Small Business and Government Reform**  
Testimony Senate Bill 392  
January 3, 2006

Good morning, Committee Chair Brown and committee members. Thank you for the opportunity to provide testimony to the Senate Committee on Veterans, Homeland Security, Military Affairs, Small Business, and Government Reform on Senate Bill 392. Senate Bill 392 requires sellers of gift cards, gift certificates or other gift obligations, that include an expiration date or service charges, to disclose the expiration date or service charges to the buyer. The goal of this legislation is to allow consumers to make informed choices purchasing and using gift cards.

It was brought to my attention that some gift cards have an expiration date and service charges that are not disclosed on the card, and may or may not be disclosed in written documentation provided with the card. After a certain period of time, the value of a card may be reduced, due to fees. The gift card loses value over time and may eventually become worthless.

Many purchasers do not realize gift cards must be redeemed within a period of time or the card's value will be reduced. In my constituent's case several cards with small values were received and saved for a large purchase. By the time he was ready to redeem the cards some were expired.

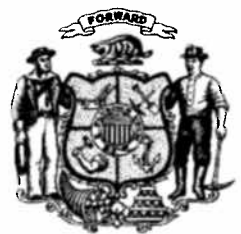
The use of expiration dates and service charges on gift cards are a business decision, best left to the business. However, consumers deserve to be informed at the point of purchase whether an expiration date exists and whether the value of the gift may be reduced due to fees. The consumer may then make informed decisions about the purchase and use of the card.

Please support SB 392 allowing businesses to provide gift cards at their design and allowing consumers to make informed purchasing and use decisions. SB 392 is a fair bill for business and a fair bill for consumers. Thank you for your attention.





# WISCONSIN STATE LEGISLATURE





**Stephen L. Nass**  
Wisconsin State Representative

**Testimony on 2005 Senate Bill 392**  
**Protecting Consumers from Hidden Fees on Gift Cards/Gift Certificates**  
**January 3, 2006**  
**Representative Steve Nass**

I am providing written testimony to express my support for Senate Bill 392. Senator Mary Lazich has authored a common sense approach for protecting consumers from hidden fees and rules relating to gift obligations (i.e., gift certificates, gift cards or on-line gift accounts).

In today's economy with consumers facing so many options in selecting gifts for family members and friends, it is becoming extremely common for gift-givers to purchase a gift certificate, a gift card or an on-line gift account. This type of transaction can be a positive for all parties, except in instances when consumers are confronted with hidden service fees and unclear expiration dates.

National data suggests that the value of unused gift cards/certificates has reached nearly \$5.5 billion annually. One big reason for the rapid rise in unused gift obligations relates to consumers being unaware of the expiration date or differing policies of each business regarding these gift obligation instruments. In the case of expiration dates, DATCP estimates that Wisconsin consumers face losing \$11 million annually due to the confusion of when gift cards/certificates expire.

SB 392 simply requires that the sellers of gift certificates, gift cards and on-line gift accounts provide the buyer with clear disclosure of the expiration date and terms of any policies assessing a service fee on the use of the gift obligation. The bill authorizes DATCP to investigate and seek prosecution of any business engaged in fraudulent gift obligation sales practices.

Under the legislation, a business found to have a first time violation of the law would receive a warning letter. If a business is found to be in violation a subsequent time, the agency may seek injunctive relief or a fine of up to \$250 per individual violation. Under current law, the department must handle consumer complaints regarding gift obligations through attempts at mediation and education with the businesses involved.

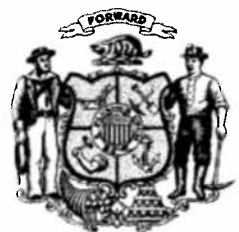
This legislation has the backing of many businesses that already provide consumers with the required information in a proactive and concise manner. These businesses understand the benefit of keeping customers happy and well-informed. Unfortunately, there are a small number of businesses that see an opportunity to take advantage of consumers through hidden fees and foggy expiration policies.

I share Senator Lazich's desire to protect consumers from these unsavory business practices, while at the same time creating a reasonable law that doesn't place unnecessary burdens on the vast majority of businesses that place their customers first. I encourage the committee to pass this bill and send it to the full Senate.





# WISCONSIN STATE LEGISLATURE





# Wisconsin Merchants Federation

*"The Voice of Wisconsin Retailing"*

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**TO:** Members of the Committee on Veterans, Homeland Security,  
Military Affairs, Small Business and Government Reform  
**FROM:** Doug Johnson, Sr. VP & General Counsel  
**DATE:** January 3, 2006  
**RE:** SB 392 Gift Cards

The members of the Wisconsin Merchants Federation do not believe that laws regulating gift cards are necessary. Our members stress that competition in the world of retail is intense and resolve most problems without burdensome regulation that can be counter-productive. Keep in mind that gift cards are becoming more and more popular with consumers. If state regulation becomes too burdensome or punitive merchants will stop selling them.

Our members ask that you consider that shoppers "vote with their feet" i.e., if they don't like how they are treated they simply shop next door. They also ask that you consider that this regulation will not apply to internet and other direct mail sellers. We already have a growing sales tax issue facing main street retailers who see their stores turning into "show rooms" for shoppers to come in check merchandise and then return home and purchase it over the Internet to save the sales tax (but that's another story for another day).

Nevertheless, WMF recognizes and appreciates the significant effort that Senator Lazich and her staff have put into SB 392. If our members are to face yet more regulation SB 392 is a bill that they can live with provided it is enforced fairly and the penalties make sense.

During the course of the work done to find compromise and balance on gift card legislation I received an e-mail from one of our national retail members. Here it is:



"Hey Doug - I do take issue with the enforcement portions of the draft. For example, \$250 per violation is way out of whack, if each sale of a card is considered a "violation." Additionally, there should be some reasonable time periods - i.e., retailers should get a "fresh start" if they haven't received a warning letter within the past 2 years, and there needs to be time to cure between the time a warning letter is received and the first day on which an enforcement action can be commenced. It could take a long time for us to have new collateral printed and rolled out in stores.

Possible text revisions:

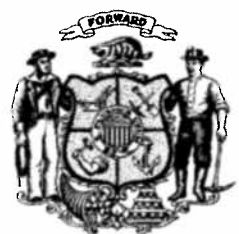
"The department may commence an action in the name of the state to restrain by temporary or permanent injunction a violation of this section, if [within the last two (2) years the violator has previously received a warning letter under par. (b) relating to a separate violation of this section provided, however, that no action may be commenced within the first one hundred eighty (180) days after the initial warning letter is received."

(Similar edits should be made to Section 1, 100.172(3)(d)).

Thank you.



# WISCONSIN STATE LEGISLATURE





State of Wisconsin  
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection  
Rod Nilsestuen, Secretary

January 3, 2006

Senator Ron Brown  
Chair  
Senate Veterans, Homeland Security, Military Affairs, Small Business,  
and Government Committee

**Re: SB 392 - Gift Cards**

Dear Senator Brown:

Thank you for the opportunity to express our thoughts concerning SB-392, a bill requiring disclosure of any expiration date and service charges carried by gift cards. We submit this letter for information.

Since disclosure is one of the most basic building blocks of consumer protection, we're pleased with the requirements in SB 392 regarding disclosure of expiration dates and service fees. In our opinion, full disclosure enables consumers to make better choices about how they want to spend their money.

As you are undoubtedly aware, the sale of gift cards is a huge industry in the United States. Some pertinent facts about gift cards are:

- They were the #1 gift in 2004 (CBS News)
- 80% of all national retailers issue gift cards (National Retail Foundation)
- Gift card sales totaled \$45 billion in 2003; \$66 billion in gift card sales is predicted for 2005; and, their sale is expected to grow to \$90 billion by 2007 (CardWorld April, 2004 (Tower Group))
- 10 - 15% of consumers never redeem their gift cards (American Book Sellers Association)

As we've discussed with Sen. Lazich previously, our preference is to have gift card legislation that includes, but goes beyond, disclosure.

When consumers purchase a gift card or certificate for \$25 as a present for another, they expect that the recipient will be able to redeem that card for \$25 worth of merchandise or services at the issuer's place of business. However, Wisconsin consumers are often surprised to find out that when they go to use the gift card, it may be worth significantly less than \$25 or be totally worthless because it has expired or because the retailer has deducted inactivity fees or and/or various service charges. These

*Agriculture generates \$51.5 billion for Wisconsin*

fees/charges can easily reduce a gift card from its original \$25 value to \$0 in a year or less.

Moreover, because 10%-15% of the value of gift cards sold in the United States goes unused every year, Wisconsin consumers lose tens of millions of dollars of purchasing power each and every year. While unredeemed gift cards are sometimes the result of the consumer's choice not to use the card, a significant number of gift cards go unredeemed in whole or in part because of expiration dates or because the card has a minimal balance left on it.

We think that consumers should get what they paid for and as a result, we think a law that puts some reasonable limitation on expiration dates and when and how service charges can be deducted from the value of the gift card is an important aspect of consumer protection.

Respectfully,

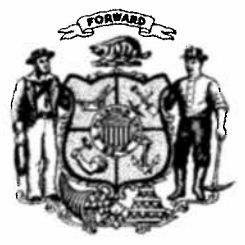


Janet Jenkins  
Administrator  
Division of Trade & Consumer Protection

cc: Senator Zien  
Senator Kanavas  
Senator Breske  
Senator Wirch



# WISCONSIN STATE LEGISLATURE





Date?

ONE SOUTH PINCKNEY, SUITE 504 • MADISON, WI 53703 • 608/244-7150 • FAX 608/244-9030

Testimony in Support of SB 392  
Presented by Michelle Kussow  
Wisconsin Grocers Association

Good afternoon. My name is Michelle Kussow and I am here representing the Wisconsin Grocers Association. I am speaking on behalf of our members including more than 1,000 retailers, distribution centers and brokers in the retail food industry.

I am here in support of Senate Bill 392 which requires retailers to fully disclose expiration dates and service fees associated with a gift obligation or gift card. I would like to thank Senator Lazich and her staff for their thorough research on the issue and for drafting legislation which will allow the gift card industry to thrive in Wisconsin and still protecting the consumers of the state.

As you know, gift card sales have jumped significantly in the past few years. This Holiday season, it was estimated that \$18.5 billion in sales was generated from gift cards nationally. People are purchasing gift cards at increasing rates and this legislation will only benefit the trend.

Grocers in Wisconsin offer both gift cards and gift certificates as a convenience for their customers as well as a way to bring new customers into their stores. Gift obligations offered by grocers vary in many ways, but most have an expiration date and many of the chain stores with gift card programs charge service fees as well.

Expiration dates on gift obligations enable businesses to account for revenues and liabilities. Without expiration dates, money can be unclaimed for unknown periods of time. Most retailers clearly state an expiration date and want their customers to use the cards.

According to the Food Marketing Institute, which is our national association, fees or expirations for store-issued gift cards usually allow a period between 1-3 years before issuing fees on dormant accounts. The fee is usually the same fee third party administrators charge the retailers for maintaining the dormant account.

The increase of gift card sales is somewhat of a misrepresentation of the actual sales that a business can count as revenue. Many believe that retailers profit when consumers either do not use the obligation to its full value or simply do not use it at all. However, accounting practices prevent retailers from counting the obligation as a sale until an exchange for merchandise has taken place.

SB 392 requires that the expiration date and service fees are conspicuously disclosed, which provides that the consumer is clearly informed of the restrictions of the obligation. On behalf of the Wisconsin Grocers Association, we ask for your support of SB 392 and believe that it protects both businesses and consumers who use gift cards.

Thank you.