

**2007 DRAFTING REQUEST**

**Bill**

Received: **03/29/2007**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Jim Sullivan (608) 266-2512**

By/Representing: **Kyle Dropp**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Sullivan@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Gift card expiration dates and service charges; exclude web disclosure

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/5			sherritz 05/01/2007	_____	cduerst 05/01/2007	cduerst 05/03/2007	

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5-21-2007

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FE Sent For:

<END>

3/30 Kyle/Sullivan

Redraft LRB-1872, but clarify that

"conspicuous disclosure" does not include  
disclosure via internet web site.

In: 3/29/07

Wanted: tomorrow, if possible

2007 - 2008 LEGISLATURE

2339/1  
LRB-1872/2

CTS:wlj:jf  
KMK

## 2007 BILL

1 AN ACT <sup>Reger</sup> ~~to amend~~ 165.25 (4) (ar); and **to create** 100.172 of the statutes; **relating**  
 2 **to:** disclosure of terms and conditions applicable to the use of gift certificates,  
 3 gift cards, and other gift obligations and providing penalties.

### *Analysis by the Legislative Reference Bureau*

This bill regulates the sale of gift certificates, gift cards, or similar items (gift obligations). Under the bill, a seller of a gift obligation must provide to a purchaser a conspicuous disclosure of any expiration date that applies to the gift obligation and the terms and amount of any service charge that apply to the gift obligation. The disclosure requirements under the bill do not apply to a document that evidences a transaction in which the obligation to provide goods or services extends to more than one seller of goods or services.

Under the bill, if the Department of Agriculture, Trade and Consumer Protection (DATCP) has reasonable cause to believe a person has violated the provisions of the bill, and the person has not committed a previous violation, DATCP must send the person a warning letter. If a person has already received a warning letter relating to a separate violation, DATCP may seek injunctive relief or a fine up to \$250 per violation.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

(Not) The bill specifies that the bill's disclosure requirements are not satisfied by a disclosure on an Internet web site

BILL

INS 2-3 ✓

CS

Gift obligation

1 SECTION 1. 100.172 of the statutes is created to read:

2 100.172 Gift obligations. (1) DEFINITION. In this section "gift obligation"

3 means a written or electronic document that is evidence of an obligation arising from  
4 a transaction between a seller and a purchaser under which the seller agrees to  
5 provide goods or services at a later date up to the value shown on the document. "Gift  
6 obligation" includes a gift certificate, a gift card, and an on-line gift account. "Gift  
7 obligation" does not include a written or electronic document that is evidence of any  
8 of the following:

9 (a) An obligation or transaction where the intent of the obligation or  
10 transaction is not to provide a gift to a person other than the seller and purchaser.

11 (b) A transaction in which the obligation to provide goods or services extends  
12 to more than one seller of goods or services.

13 (2) RESTRICTIONS. (a) No person may sell a gift obligation that expires on a  
14 specified date or after a specified period of time unless the person provides to the  
15 purchaser a conspicuous disclosure that the gift obligation expires on the specified  
16 date or after the specified period of time.

17 (b) No person may sell a gift obligation to which a service charge applies unless  
18 the person provides to the purchaser, in writing or in an electronic format, a  
19 conspicuous disclosure of the terms and amount of the service charge.

20 (3) PENALTIES AND REMEDIES. (a) The department may exercise its authority  
21 under ss. 93.14 and 93.15 to investigate violations of this section.

22 (b) If the department determines there is reasonable cause to believe that a  
23 person has violated this section, and the person has not previously received a  
24 warning letter relating to a separate violation, the department shall issue a letter  
25 to the person that contains all of the following:

**BILL**

1           1. A statement that the department has determined there is reasonable cause  
2 to believe that the person has violated this section.

3           2. A brief description of the nature of the violation.

4           3. A statement of the penalties and remedies that apply to violations of this  
5 section.

6           (c) The department may commence an action in the name of the state to restrain  
7 by temporary or permanent injunction a violation of this section, if the violator has  
8 previously received a warning letter under par. (b) relating to a separate violation  
9 of this section. Before entry of final judgment, the court may make any necessary  
10 orders to restore to any person any pecuniary loss suffered by the person because of  
11 the violation.

12           (d) A person who sells a gift obligation in violation of this section and who has  
13 previously received a warning letter from the department under par. (b) relating to  
14 a separate violation may be fined not less than twice the value of the gift obligation  
15 sold in violation of this section or \$250, whichever is less, for each violation.

16           **SECTION 2.** 165.25 (4) (ar) of the statutes, as affected by 2005 Wisconsin Act 458,  
17 is amended to read:

18           165.25 (4) (ar) The department of justice shall furnish all legal services  
19 required by the department of agriculture, trade and consumer protection relating  
20 to the enforcement of ss. 100.171, 100.172, 100.173, 100.174, 100.175, 100.177,  
21 100.18, 100.182, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42,  
22 100.50, 100.51, and 100.195 and chs. 126, 136, 344, 704, 707, and 779, together with  
23 any other services as are necessarily connected to the legal services.

24           **SECTION 3. Initial applicability.**





2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2339/lins  
CTS:.....

1



**Insert 2-3:**

2

:

3

(a) "Conspicuous disclosure" does not include a disclosure on an Internet web

4

site.

5

(b) "Gift obligation"

3/30 Kyle/Sullivan

Redraft LRB-2339/1: Add telephone call as not included in "conspicuous disclosure."