



1/1: 3/30/07
State of Wisconsin
2007 - 2008 LEGISLATURE

Z RMNR
LRB-2339/P
CTS:wlj:jf
↑
stays

2007 BILL

Regen

1 AN ACT *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.

made
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. The bill specifies that the bill's disclosure requirements are not satisfied by a disclosure on an Internet Web site.

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.

or by telephone

BILL

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:

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

2 **100.172 Gift obligations. (1) DEFINITIONS.** In this section:

3 (a) "Conspicuous disclosure" does not include a disclosure on an Internet Web
4 site *or a disclosure made by telephone*

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

11 1. An obligation or transaction where the intent of the obligation or transaction
12 is not to provide a gift to a person other than the seller and purchaser.

13 2. A transaction in which the obligation to provide goods or services extends to
14 more than one seller of goods or services.

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

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

BILL

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

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

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

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

10 3. A statement of the penalties and remedies that apply to violations of this
11 section.

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

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

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

24 165.25 (4) (ar) The department of justice shall furnish all legal services
25 required by the department of agriculture, trade and consumer protection relating

BILL

1 to the enforcement of ss. 100.171, 100.172, 100.173, 100.174, 100.175, 100.177,
2 100.18, 100.182, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42,
3 100.50, 100.51, and 100.195 and chs. 126, 136, 344, 704, 707, and 779, together with
4 any other services as are necessarily connected to the legal services.

SECTION 3. Initial applicability.

5
6 (1) This act first applies to gift obligations, as defined in section 100.172 (1) of
7 the statutes, as created by this act, that are sold on the effective date of this
8 subsection.

SECTION 4. Effective date.

9
10 (1) This act takes effect on first day of the 12th month beginning after
11 publication.

12 (END)

redraft

- 2339/2

Kyle Leighton
6-2512

11:30

wanted in on 4/23 - Am

(a) "conspicuous disclosure" does not include any of the following, or any combination of the following:

1. a disclosure ^{available} on an internet website.
2. a disclosure ~~or~~ made available by telephone.
3. a disclosure ~~obtained~~ available at a physical address.
4. a disclosure made available by mail.

4/23 Kyle/Sullivan

Require that disclosures — both exp.
dates and service charges — be made
at the point of sale.



In: 4/22/07 2:30P Wanted: Monday AM 4/23/07

State of Wisconsin
2007 - 2008 LEGISLATURE

3
LRB-2339/2 RMR

CTS:wlj:rs
L + JLD

2007 BILL

at the point of sale ✓

Regen

1 AN ACT 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. The bill specifies that the bill's disclosure requirements are not satisfied by a disclosure made on an Internet Web site or by telephone. *

→ 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.

at a physical address, or by mail

BILL

INS
2-4 ✓

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:

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

2 **100.172 Gift obligations.** (1) DEFINITIONS. In this section:

3 (a) "Conspicuous disclosure" does not include a disclosure on an Internet Web
4 site or a disclosure made by telephone.

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

11 1. An obligation or transaction where the intent of the obligation or transaction
12 is not to provide a gift to a person other than the seller and purchaser.

13 2. A transaction in which the obligation to provide goods or services extends to
14 more than one seller of goods or services. *at the point of sale*

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

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

at the point of sale ✓

BILL

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

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

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

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

10 3. A statement of the penalties and remedies that apply to violations of this
11 section.

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

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

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

24 165.25 (4) (ar) The department of justice shall furnish all legal services
25 required by the department of agriculture, trade and consumer protection relating

BILL

1 to the enforcement of ss. 100.171, 100.172, 100.173, 100.174, 100.175, 100.177,
2 100.18, 100.182, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42,
3 100.50, 100.51, and 100.195 and chs. 126, 136, 344, 704, 707, and 779, together with
4 any other services as are necessarily connected to the legal services.

SECTION 3. Initial applicability.

5
6 (1) This act first applies to gift obligations, as defined in section 100.172 (1) of
7 the statutes, as created by this act, that are sold on the effective date of this
8 subsection.

SECTION 4. Effective date.

9
10 (1) This act takes effect on first day of the 12th month beginning after
11 publication.

12 (END)

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2339/3ins
CTS:.....

1 **Insert 2-4:**

2 ~~4~~ any of the following or any combination of the following:

3 1. A disclosure available on an Internet Web site. ✓

4 2. A disclosure made available by telephone. ✓

5 3. A disclosure available at a physical address. ✓

6 4. A disclosure made available by mail. ✓

2/27/07 Kyle/Sullivan

Draft WRB-2339/3:

1. Limit exclusion of online disclosures; should not apply to gift obligation sold online
2. Exclude gift obligation sold by ~~at~~ charitable organization or public/private educational institution.



W: 4/27/07 Wanted: soon

State of Wisconsin
2007 - 2008 LEGISLATURE

4
LRB-2339/8
CTS:wlj&jld:rs
stays

2007 BILL

or to a gift obligation sold by a charitable organization or educational institution

Regen

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2 to: disclosure of terms and conditions applicable to the use of gift certificates,
3 gift cards, and other gift obligations and providing penalties.

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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 at the point of sale 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. The bill specifies that the bill's disclosure requirements are not satisfied by a disclosure made available on an Internet Web site, by telephone, as a physical address, or by mail.

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.

or on an Internet Web site unless the gift obligation is purchased on the Internet

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

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

2 **100.172 Gift obligations. (1) DEFINITIONS.** In this section:

3 (a) "Conspicuous disclosure" does not include any of the following or any
4 combination of the following:

- 5 1. A disclosure available on an Internet Web site
- 6 2. A disclosure made available by telephone.
- 7 3. A disclosure available at a physical address.
- 8 4. A disclosure made available by mail.

except with respect to a gift obligation sold on an Internet Web site

9 (b) "Gift obligation" means a written or electronic document that is evidence
10 of an obligation arising from a transaction between a seller and a purchaser under
11 which the seller agrees to provide goods or services at a later date up to the value
12 shown on the document. "Gift obligation" includes a gift certificate, a gift card, and
13 an on-line gift account. "Gift obligation" does not include a written or electronic
14 document that is evidence of any of the following:

- 15 1. An obligation or transaction where the intent of the obligation or transaction
16 is not to provide a gift to a person other than the seller and purchaser.
- 17 2. A transaction in which the obligation to provide goods or services extends to
18 more than one seller of goods or services.

19 (2) RESTRICTIONS (a) No person may sell a gift obligation that expires on a
20 specified date or after a specified period of time unless the person provides to the

EXCEPTIONS

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INS
3.5
↓

1 purchaser a conspicuous disclosure at the point of sale that the gift obligation expires
2 on the specified date or after the specified period of time.

3 (b) No person may sell a gift obligation to which a service charge applies unless
4 the person provides to the purchaser at the point of sale, in writing or in an electronic
5 format, a conspicuous disclosure of the terms and amount of the service charge.

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

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

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

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

15 3. A statement of the penalties and remedies that apply to violations of this
16 section.

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

23 (d) A person who sells a gift obligation in violation of this section and who has
24 previously received a warning letter from the department under par. (b) relating to

BILL

1 a separate violation may be fined not less than twice the value of the gift obligation
2 sold in violation of this section or \$250, whichever is less, for each violation.

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

5 165.25 (4) (ar) The department of justice shall furnish all legal services
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7 to the enforcement of ss. 100.171, 100.172, 100.173, 100.174, 100.175, 100.177,
8 100.18, 100.182, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42,
9 100.50, 100.51, and 100.195 and chs. 126, 136, 344, 704, 707, and 779, together with
10 any other services as are necessarily connected to the legal services.

11 **SECTION 3. Initial applicability.**

12 (1) This act first applies to gift obligations, as defined in section 100.172 (1) of
13 the statutes, as created by this act, that are sold on the effective date of this
14 subsection.

15 **SECTION 4. Effective date.**

16 (1) This act takes effect on first day of the 12th month beginning after
17 publication.

18 (END)

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2339/4ins
CTS:.....

1 **Insert 3-5:**

2 (c) This section does not apply to a gift obligation sold by a charitable
3 organization or a public or private educational institution.

4/30/06 Kyle / Sullivan

Redraft LRB-2339/4:

1. P.3 L.4-5 = delete in writing or in an electronic format.

2. make (2)(a) and (2)(b) consistent.



2007 BILL

Regen

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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.

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5 1. A disclosure available on an Internet Web site, except with respect to a gift
6 obligation sold at an Internet Web site.

7 2. A disclosure made available by telephone.

8 3. A disclosure available at a physical address.

9 4. A disclosure made available by mail.

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

16 1. An obligation or transaction where the intent of the obligation or transaction
17 is not to provide a gift to a person other than the seller and purchaser.

18 2. A transaction in which the obligation to provide goods or services extends to
19 more than one seller of goods or services.

20 **(2) RESTRICTIONS; EXCEPTIONS.** (a) No person may sell a gift obligation that
21 expires on a specified date or after a specified period of time unless the person

BILL

at the point of sale

① provides to the purchaser a conspicuous disclosure at the point of sale that the gift
2 obligation expires on the specified date or after the specified period of time.

3 (b) No person may sell a gift obligation to which a service charge applies unless
④ the person provides to the purchaser at the point of sale, in writing or in an electronic
⑤ format, a conspicuous disclosure of the terms and amount of the service charge.

6 (c) This section does not apply to a gift obligation sold by a charitable
7 organization or a public or private educational institution.

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

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21 previously received a warning letter under par. (b) relating to a separate violation
22 of this section. Before entry of final judgment, the court may make any necessary
23 orders to restore to any person any pecuniary loss suffered by the person because of
24 the violation.

BILL

1 (d) A person who sells a gift obligation in violation of this section and who has
2 previously received a warning letter from the department under par. (b) relating to
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14 (1) This act first applies to gift obligations, as defined in section 100.172 (1) of
15 the statutes, as created by this act, that are sold on the effective date of this
16 subsection.

17 **SECTION 4. Effective date.**

18 (1) This act takes effect on first day of the 12th month beginning after
19 publication.

20 (END)

Duerst, Christina

From: Leighton, Kyle
Sent: Thursday, May 03, 2007 9:09 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-2339/5 Topic: Gift card expiration dates and service charges; exclude web disclosure

Please Jacket LRB 07-2339/5 for the SENATE.