

Amendment No. 567

Assembly Amendment to Assembly Bill No. 19	(BDR 52-558)
Proposed by: Committee on Commerce and Labor	
Amendment Box: Replaces Amendment No. 322.	
Resolves Conflicts with: N/A	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend section 1, page 2, by deleting lines 3 through 30 and inserting:

“1. A person engages in a “deceptive trade practice” if, in the course of his business or occupation:

(a) He issues a gift certificate that expires on a certain date, unless either of the following is printed plainly and conspicuously on the front or back of the gift certificate in at least 10-point font and in such a manner that the print is readily visible to the buyer of the gift certificate before the buyer purchases the gift certificate:

(1) The expiration date of the gift certificate; or

(2) A toll-free telephone number accompanied by a statement setting forth that the buyer or holder of the gift certificate may call the telephone number to obtain the balance of the gift certificate and the expiration date of the gift certificate;

JCB/MSM

Date: 4/20/2005

A.B. No. 19—Prohibits issuance of gift certificate that contains expiration date and prohibits issuer of gift certificate from charging fee for inactivity to buyer or holder of gift certificate.

(b) He imposes upon the buyer or holder of a gift certificate a service fee, unless each of the following is printed plainly and conspicuously on the front or back of the gift certificate in at least 10-point font and in such a manner that the print is readily visible to the buyer of the gift certificate before the buyer purchases the gift certificate:

- (1) The amount of the service fee;*
- (2) The event or events that will cause the service fee to be imposed;*
- (3) The frequency with which the service fee will be imposed; and*
- (4) If the service fee will be imposed on the basis of inactivity, the duration of inactivity that will cause the service fee to be imposed; or*

(c) Regardless of the notice provided, he imposes upon the buyer or holder of a gift certificate:

- (1) A service fee or a combination of service fees that exceed a total of \$1 per month; or*
- (2) A service fee that commences or is imposed within the first 12 months after the issuance of the gift certificate.*

2. The provisions of this section do not apply to:

- (a) A gift certificate that is issued as part of an award, loyalty, promotional or reward program and for which issuance the issuer does not receive money or any other thing of value;*
- (b) A gift certificate that is sold at a reduced price to an employer or nonprofit or charitable organization, if the expiration date of the gift certificate is not more than 30 days after the date of sale; and*
- (c) A gift certificate that is issued by an establishment licensed pursuant to the provisions of chapter 463 of NRS.*

3. As used in this section:

(a) “Gift certificate” means an instrument or a record evidencing a promise by the seller or issuer of the instrument or record to provide goods or services to the holder of the gift certificate for the value shown in, upon or ascribed to the instrument or record and for which the value shown in, upon or ascribed to the instrument or record is decreased in an amount equal to the value of goods or services provided by the issuer or seller to the holder. The term includes, without limitation, a gift card, certificate or similar instrument. The term does not include:

(1) An instrument or record for prepaid telecommunications or technology services, including, without limitation, a card for prepaid telephone services, a card for prepaid technical support services and an instrument for prepaid Internet service purchased or otherwise distributed to a consumer of such services, including, without limitation, as part of an award, loyalty, promotional or reward program; or

(2) An instrument or record, by whatever name called, that may be used to obtain goods or services from more than one person or business entity, if the expiration date is printed plainly and conspicuously on the front or back of the instrument or record in at least 10-point font and in such a manner that the print is readily visible to the buyer of the instrument or record before the buyer purchases the instrument or record.

(b) “Issue” means to sell or otherwise provide a gift certificate to any person and includes, without limitation, adding value to an existing gift certificate.

(c) “Record” means information which is inscribed on a tangible medium or which is stored in an electronic or other medium, including, without limitation, information stored on a microprocessor chip or magnetic strip, and is retrievable in perceivable form.

(d) “Service fee” means any charge or fee other than the charge or fee imposed for the issuance of the gift certificate, including, without limitation, a service fee imposed on the basis of inactivity or any other type of charge or fee imposed after the sale of the gift certificate.”.

Amend the title of the bill by deleting the fourth and fifth lines and inserting:

“a gift certificate from charging certain fees to the buyer or holder of a gift certificate under certain circumstances; providing a penalty;”.

Amend the summary of the bill to read as follows:

“SUMMARY—Prohibits, under certain circumstances, issuance of gift certificate that contains expiration date and prohibits, under certain circumstances, issuer of gift certificate from charging certain fees to buyer or holder of gift certificate. (BDR 52-558)”.

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Existing law establishes and regulates deceptive trade practices (NRS 598.0903-598.990) and provides civil and criminal penalties for engaging in such practices. (NRS 598.0999)

This bill makes it a deceptive trade practice for a person to issue, in the course of his business or occupation, a gift certificate that expires on a certain date unless such date, or a toll-free telephone number which the buyer or holder may call to find out the expiration date, is printed plainly and conspicuously on the front or back of the gift certificate in 10-point font and in such a manner that the print is readily visible to the buyer of the gift certificate before the buyer purchases the gift certificate.

This bill also prohibits a person from imposing service fees in connection with a gift certificate unless certain disclosures relating to the charges or fees are printed plainly and conspicuously on the front or back of the gift certificate in 10-point font and in such a manner that the print is readily visible to the buyer of the gift certificate before the buyer purchases the gift certificate.

This bill also prohibits, regardless of the notice provided, a person from: (1) imposing a service fee or a combination of services fees that exceed \$1 per month; or (2) imposing a service fee that commences within the first 12 months after the issuance of the gift certificate. Because these practices are deemed deceptive trade practices, a person who violates these provisions is subject to the civil and criminal penalties for engaging in a deceptive trade practice.

The term “gift certificate” is defined for the purposes of this bill to exclude: (1) certain instruments and records used for the prepayment of telecommunications or technology services; and (2) certain instruments and records that may be used to obtain goods or services from more than one person or business entity. The term “service fee” is defined for the purposes of this bill to mean any charge or fee, except for the charge or fee imposed for the issuance of the gift certificate, that is imposed after the sale of the gift certificate.