

ASSEMBLY BILL NO. 279—ASSEMBLYMEN KIHUEN, PARKS, ANDERSON, ARBERRY, ATKINSON, BEERS, BOBZIEN, BUCKLEY, CLABORN, COBB, CONKLIN, DENIS, GERHARDT, HOGAN, HORNE, KIRKPATRICK, KOIVISTO, MANENDO, MCCLAIN, MORTENSON, MUNFORD, OCEGUERA, OHRENSCHALL, PARNELL, PIERCE, SEGERBLUM, SMITH AND WOMACK

MARCH 9, 2007

JOINT SPONSORS: SENATORS CARLTON, CARE, TITUS, HORSFORD, LEE AND WOODHOUSE

Referred to Committee on Commerce and Labor

SUMMARY—Requires the unused value of certain gift certificates to escheat to the State. (BDR 52-961)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to gift certificates; prohibiting an issuer from charging a service fee on the basis of inactivity if the inactivity is for less than 3 continuous years; requiring the unused value of certain gift certificates to escheat to the State; providing for the use of the proceeds from abandoned gift certificates for educational purposes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Section 1** of this bill prohibits the issuer of a gift certificate from charging a
2 service fee on the basis of inactivity if the inactivity is for less than 3 continuous
3 years.
4 **Section 2** of this bill provides that the unredeemed or uncharged value
5 remaining on a gift certificate that is issued or sold in this State and has an
6 expiration date is presumed abandoned on the expiration date. **Section 3** of this bill
7 requires that all proceeds received from abandoned gift certificates by the State



* A B 2 7 9 R 1 *

8 Treasurer in his capacity as the Administrator of Unclaimed Property be accounted
9 for separately and may be used only for educational purposes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 598.0921 is hereby amended to read as
2 follows:

3 598.0921 1. A person engages in a “deceptive trade practice”
4 if, in the course of his business or occupation:

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

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

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

15 (b) He imposes upon the buyer or holder of a gift certificate a
16 service fee, unless each of the following is printed plainly and
17 conspicuously on the front or back of the gift certificate in at least
18 10-point font and in such a manner that the print is readily visible to
19 the buyer of the gift certificate before the buyer purchases the gift
20 certificate:

21 (1) The amount of the service fee;

22 (2) The event or events that will cause the service fee to be
23 imposed;

24 (3) The frequency with which the service fee will be
25 imposed; and

26 (4) If the service fee will be imposed on the basis of
27 inactivity, the duration of inactivity, *which must not be less than 3*
28 *continuous years of nonuse*, that will cause the service fee to be
29 imposed; or

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

32 (1) A service fee or a combination of service fees that exceed
33 a total of \$1 per month; or

34 (2) A service fee that commences or is imposed within the
35 first 12 months after the issuance of the gift certificate.

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

37 (a) A gift certificate that is issued as part of an award, loyalty,
38 promotional, rebate, incentive or reward program and for which



1 issuance the issuer does not receive money or any other thing of
2 value;

3 (b) A gift certificate that is sold at a reduced price to an
4 employer or nonprofit or charitable organization, if the expiration
5 date of the gift certificate is not more than 30 days after the date of
6 sale; and

7 (c) A gift certificate that is issued by an establishment licensed
8 pursuant to the provisions of chapter 463 of NRS.

9 3. As used in this section:

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

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

26 (2) An instrument or record, by whatever name called, that
27 may be used to obtain goods or services from more than one person
28 or business entity, if the expiration date is printed plainly and
29 conspicuously on the front or back of the instrument or record.

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

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

38 (d) "Service fee" means any charge or fee other than the charge
39 or fee imposed for the issuance of the gift certificate, including,
40 without limitation, a service fee imposed on the basis of inactivity or
41 any other type of charge or fee imposed after the sale of the gift
42 certificate.



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1 **Sec. 2.** Chapter 120A of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *Any unredeemed or uncharged value remaining on a gift*
4 *certificate that is issued or sold in this State and has an expiration*
5 *date is presumed abandoned and subject to the provisions of this*
6 *chapter on the expiration date.*

7 2. *If a gift certificate is issued or sold in this State and the*
8 *seller or issuer does not obtain and maintain in his records the*
9 *name and address of the owner of the gift certificate, the address*
10 *of the owner of the gift certificate shall be deemed to be the*
11 *address of the Office of the State Treasurer in Carson City.*

12 3. *This section does not create a cause of action against a*
13 *person who issues or sells a gift certificate.*

14 4. *As used in this section, "gift certificate" has the meaning*
15 *ascribed to it in NRS 598.0921.*

16 **Sec. 3.** NRS 120A.360 is hereby amended to read as follows:

17 120A.360 1. Except as otherwise provided in subsections 4 ~~to~~
18 ~~5 and 6,~~ **to 7, inclusive,** all abandoned property other than money
19 delivered to the Administrator under this chapter must, within 2
20 years after the delivery, be sold by the Administrator to the highest
21 bidder at public sale in whatever manner affords in his judgment the
22 most favorable market for the property involved. The Administrator
23 may decline the highest bid and reoffer the property for sale if he
24 considers the price bid insufficient.

25 2. Any sale held under this section must be preceded by a
26 single publication of notice thereof at least 2 weeks in advance of
27 the sale in a newspaper of general circulation in the county where
28 the property is to be sold.

29 3. The purchaser at any sale conducted by the Administrator
30 pursuant to this chapter is vested with title to the property
31 purchased, free from all claims of the owner or prior holder and of
32 all persons claiming through or under them. The Administrator shall
33 execute all documents necessary to complete the transfer of title.

34 4. The Administrator need not offer any property for sale if, in
35 his opinion, the probable cost of the sale exceeds the value of the
36 property. The Administrator may destroy or otherwise dispose of
37 such property or may transfer it to:

38 (a) The Nevada Museum and Historical Society, the Nevada
39 State Museum or the Nevada Historical Society, upon its written
40 request, if the property has, in the opinion of the requesting
41 institution, historical, artistic or literary value and is worthy of
42 preservation;

43 (b) A genealogical library, upon its written request, if the
44 property has genealogical value and is not wanted by the Nevada



1 Museum and Historical Society, the Nevada State Museum or the
2 Nevada Historical Society; or

3 (c) A veterans' or military museum, upon its written request, if
4 the property has military or military historical value and is not
5 wanted by the Nevada Museum and Historical Society, the Nevada
6 State Museum or the Nevada Historical Society.

7 ➡ An action may not be maintained by any person against the
8 holder of the property because of that transfer, disposal or
9 destruction.

10 5. Securities listed on an established stock exchange must be
11 sold at the prevailing price for that security on the exchange at the
12 time of sale. Other securities not listed on an established stock
13 exchange may be sold:

14 (a) Over the counter at the prevailing price for that security at
15 the time of sale; or

16 (b) By any other method the Administrator deems acceptable.

17 6. The Administrator shall hold property that was removed
18 from a safe-deposit box or other safekeeping repository for 1 year
19 after the date of the delivery of the property to the Administrator,
20 unless that property is a will or a codicil to a will, in which case the
21 Administrator shall hold the property for 10 years after the date of
22 the delivery of the property to the Administrator. If no claims are
23 filed for the property within that period, it may be destroyed.

24 *7. All proceeds received by the Administrator from*
25 *abandoned gift certificates must be accounted for separately in the*
26 *Abandoned Property Trust Fund in the State Treasury. At the end*
27 *of each fiscal year, before any other money in the Abandoned*
28 *Property Trust Fund is transferred pursuant to NRS 120A.370, the*
29 *balance in the account created pursuant to this subsection, less*
30 *any costs, service charges or claims chargeable to the account,*
31 *must be transferred to the Educational Trust Fund which is*
32 *hereby created in the State Treasury. The money in the*
33 *Educational Trust Fund may be expended only as authorized by*
34 *the Legislature for educational purposes.*

35 **Sec. 4.** This act applies to gift certificates issued on or after
36 October 1, 2007.

