

HOUSE BILL NO. 64

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES GATTO, GARDNER, AND GRUENBERG

Introduced: 1/20/09

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to gift certificates and gift cards, and to unclaimed property; and
2 making a violation of certain gift card prohibitions an unlawful trade practice."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 34.45.240 is amended to read:

5 **Sec. 34.45.240. Gift cards [CERTIFICATES] and credit memos.** (a) A gift
6 **card** [CERTIFICATE] or a credit memo, issued in the ordinary course of an issuer's
7 business, that remains unclaimed by the owner for more than three years after
8 becoming payable or distributable is presumed abandoned.

9 (b) In the case of a gift **card** [CERTIFICATE], the amount presumed
10 abandoned is the **balance remaining on** [PRICE PAID BY THE PURCHASER FOR]
11 the gift **card** [CERTIFICATE]. In the case of a credit memo, the amount presumed
12 abandoned is the amount credited to the recipient of the memo.

13 * **Sec. 2.** AS 34.45.760(8) is amended to read:

14 (8) "gift **card** [CERTIFICATE]" **has the meaning given in**

1 **AS 45.45.940** [MEANS AN OBLIGATION OF A BUSINESS ASSOCIATION
 2 ARISING FROM A TRANSACTION BETWEEN THE BUSINESS ASSOCIATION
 3 AND A CONSUMER TO PROVIDE GOODS OR SERVICES AT A FUTURE
 4 DATE; "GIFT CERTIFICATE" INCLUDES A GIFT CERTIFICATE, STORED
 5 VALUE CARD, GIFT CARD, ON-LINE GIFT ACCOUNT, OR OTHER
 6 REPRESENTATION OR EVIDENCE OF THE OBLIGATION OF A BUSINESS
 7 ASSOCIATION];

8 * **Sec. 3.** AS 34.45.760(11) is amended to read:

9 (11) "intangible property"

10 (A) includes

11 (i) money, checks, drafts, warrants, deposits, interest,
 12 dividends, and income;

13 (ii) credit balances, customer overpayments, gift **cards**
 14 [CERTIFICATES], security deposits, refunds, credit memos, unpaid
 15 wages, and unidentified remittances;

16 (iii) stocks and other intangible equity interests in
 17 business associations;

18 (iv) money deposited to redeem stocks, bonds, coupons,
 19 and other securities, or to make distributions;

20 (v) amounts due and payable under the terms of
 21 insurance policies;

22 (vi) amounts distributable from a trust or custodial fund
 23 established under a plan to provide health, welfare, pension, vacation,
 24 severance, retirement, death, stock purchase, profit-sharing, employee
 25 savings, supplemental unemployment insurance, or similar benefits;
 26 and

27 (vii) amounts due and payable as mineral proceeds;

28 (B) does not include

29 (i) unused airline tickets;

30 (ii) shares of stock issued by a corporation organized
 31 under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act) or

1 unclaimed dividends payable on the shares of stock; or

2 (iii) overpaid contributions by employers to the
3 unemployment compensation fund under AS 23.20.130;

4 * **Sec. 4.** AS 45.45 is amended by adding a new section to article 12 to read:

5 **Sec. 45.45.940. Gift cards.** (a) A person may not sell or offer to sell a gift card
6 unless the

7 (1) gift card is redeemable at full face value in perpetuity; and

8 (2) gift card's date of issuance is clearly

9 (A) identified on the face of the gift card; or

10 (B) printed, if the gift card is an electronic card with a stored
11 value and if the stored value is primarily intended to be redeemed for the goods
12 or services of the issuer of the gift card, on a sales receipt transferred to the
13 buyer or another holder of the electronic card or available through a toll-free
14 telephone line; in this subparagraph,

15 (i) "issuer of the gift card" means the issuer of the gift
16 card, the issuer's affiliates, or another person involved in transactions
17 functionally related to the issuer or the issuer's affiliates;

18 (ii) "stored value" means the value that the gift card
19 provides to the account of the buyer or other holder of the gift card.

20 (b) A person may not sell or offer to sell a gift card that imposes dormancy
21 fees, latency fees, administrative fees, periodic fees, service fees, or other fees that
22 have the effect of reducing the total amount for which the holder may redeem a gift
23 card.

24 (c) This section does not apply to the sale or offer of a gift card

25 (1) that is distributed by the issuer of the gift card under an awards,
26 loyalty, or promotional program if the recipient does not give the issuer money or
27 another thing of value in exchange for the gift card;

28 (2) that is donated to a nonprofit organization or a charitable
29 organization for fundraising purposes;

30 (3) that is issued by a financial institution, a national bank, or a
31 subsidiary of a financial institution or a national bank, if the gift card may be used for

1 the goods or services of more than one person who is not affiliated with the financial
2 institution, national bank, or subsidiary; in this paragraph, "financial institution" and
3 "national bank" have the meanings given in AS 06.05.990;

4 (4) that can be used to purchase goods or services from more than one
5 seller of goods or services.

6 (d) This section does not apply to a person's sale or offer of a gift card unless
7 the sale or offer is made in this state.

8 (e) In this section, "gift card" means a device that is usable up to its face
9 amount instead of cash in exchange for goods or services, except telephone services,
10 supplied by a seller; in this subsection, "device" includes an electronic card, but does
11 not mean an access number or authorization code, whether manually or electronically
12 dialed, to make calls.

13 * **Sec. 5.** AS 45.50.471(b) is amended by adding a new paragraph to read:

14 (56) violating AS 45.45.940 (gift cards).