

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6103**

**BILL NUMBER:** HB 1260

**NOTE PREPARED:** Feb 17, 2021

**BILL AMENDED:** Feb 16, 2021

**SUBJECT:** Gift Certificates and Store Gift Cards.

**FIRST AUTHOR:** Rep. Cook

**FIRST SPONSOR:** Sen. Young M

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that a person shall not sell or issue to an Indiana consumer any gift certificate or store gift card with an expiration date unless certain conditions are met. It provides that if at any time after the gift certificate or store gift card is issued or sold:

- (1) the merchant for which the gift certificate or store gift card was originally sold or issued:
  - (A) for any reason ceases to do business in Indiana; or
  - (B) for any reason:
    - (i) substantially changes; or
    - (ii) ceases to offer; the types of goods or services that were offered to consumers at the time the gift certificate or store gift card was originally sold or issued; and
- (2) any expiration date:
  - (A) authorized under the bill's provisions; and
  - (B) applicable to the gift certificate or store gift card (or to the underlying funds associated with either) has not elapsed; the merchant for which the gift certificate or store gift card was originally sold or issued shall, upon the request of an Indiana consumer who is the rightful holder of the gift certificate or store gift card, promptly refund to the holder the balance of the underlying funds or provide the holder with the remaining balance in some other manner.

The bill provides that a person that violates the bill's provisions:

- (1) commits a deceptive act that is actionable by an aggrieved consumer and the Attorney General under the deceptive consumer sales act; and
- (2) is subject to the penalties and remedies set forth in the deceptive consumer sales act.

It authorizes the Attorney General to adopt rules to implement these provisions.

**Effective Date:** July 1, 2021; January 1, 2023.

**Explanation of State Expenditures:** *Office of the Attorney General (AG):* The bill adds to the list of prohibited acts the selling or issuing of a gift certificate or store gift card that is subject to an expiration date, potentially increasing the number of violations. Deceptive acts are actionable by either the AG or the consumer. This may lead to a small workload increase for the AG.

**Additional Information:** The definitions used in the bill reflect the language of current federal law, which prohibits the sale of such products with an expiration date of less than five years from the time the card was purchased or loaded. It does not further restrict the imposition of activation, transaction, or inactivity fees on card holders.

**Explanation of State Revenues:** If the number of deceptive acts increases, revenue to the General Fund would also increase. Under current law, a civil penalty of \$500 is assessed per deceptive act. A penalty of \$5,000 is assessed for each deceptive act committed knowingly. Actual revenue increases are indeterminable, but will likely be small.

**Court Fee Revenue:** If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana, and proceeds from the automated record keeping fee (\$20) are deposited into the State User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$5) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per page) are charged for preparing transcripts or copies of record or certificate under seal.
- A civil garnishee defendant service fee (\$10) is collected from the filing party for each defendant beyond the first three garnishee defendants cited in the lawsuit.

**State Agencies Affected:** Office of the Attorney General.

**Local Agencies Affected:** Trial courts, city and town courts.

**Information Sources:**

**Fiscal Analyst:** Seth Payton, 233-3546.