

Bill No. CS for SB 22-C, 1st Eng.

Barcode 175858

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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The Conference Committee on CS for SB 22-C, 1st Eng.
recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 501.95, Florida Statutes, is
amended to read:

501.95 Gift certificates and credit memos.--

(1) As used in this section, the term:

(a) "Credit memo" means a certificate, card, stored
value card, or similar instrument issued in exchange for
returned merchandise when the certificate, card, or similar
instrument is redeemable for merchandise, food, or services
regardless of whether any cash may be paid to the owner of the
certificate, card, or instrument as part of the redemption
transaction.

(b) "Gift certificate" means a certificate, gift card,
stored value card, or similar instrument purchased ~~issued in~~
~~exchange~~ for monetary consideration when the certificate,

Bill No. CS for SB 22-C, 1st Eng.

Barcode 175858

1 card, or similar instrument is redeemable for merchandise,
 2 food, or services regardless of whether any cash may be paid
 3 to the owner of the certificate, card, or instrument as part
 4 of the redemption transaction, but this term shall not include
 5 tickets as specified in s. 717.1355 or manufacturer or
 6 retailer discounts and coupons.

7 (2)(a) A gift certificate purchased or credit memo
 8 ~~sold or issued for consideration~~ in this state may not have an
 9 expiration date, expiration period, or any type of postsale
 10 charge or fee imposed on the gift certificate or credit memo,
 11 including, but not limited to, service charges, dormancy fees,
 12 account maintenance fees, or cash-out fees. However, a gift
 13 certificate may have an expiration date of not less than 3
 14 years if it is provided as a charitable contribution ~~when no~~
 15 ~~consideration is given to the issuer by the consumer~~, or not
 16 less than 1 year if it is provided as a benefit pursuant to an
 17 employee-incentive program, ~~consumer loyalty program, or~~
 18 ~~promotional program when no consideration is given to the~~
 19 ~~issuer by the consumer~~, and the expiration date is prominently
 20 disclosed in writing to the consumer at the time it is
 21 provided. In addition, a gift certificate may have an
 22 expiration date if it is provided to the recipient, or to a
 23 purchaser for transfer to the recipient, as part of a loyalty
 24 or promotional program when the recipient does not pay a
 25 separate identifiable charge for the certificate, or if it is
 26 provided in conjunction with ~~as part of a larger package~~
 27 ~~related to~~ a convention, conference, vacation, or sporting or
 28 fine arts event having a limited duration so long as the
 29 majority of the value paid by the recipient is attributable to
 30 the convention, conference, vacation, or event. An issuer may
 31 honor a gift certificate that has expired on or before the

Bill No. CS for SB 22-C, 1st Enq.

Barcode 175858

1 effective date of this act.

2 (b) Paragraph (a) does not apply to a gift certificate
3 or credit memo sold or issued by a financial institution, as
4 defined in s. 655.005, or by a money transmitter, as defined
5 in s. 560.103, if the gift certificate or credit memo is
6 redeemable by multiple unaffiliated merchants.

7 (c) Enforcement of this section shall be as provided
8 in s. 501.142(3), (4), and (5) for violations of this section.

9 Section 2. Subsections (3), (4), and (5) of section
10 501.142, Florida Statutes, read:

11 501.142 Retail sales establishments; preemption;
12 notice of refund policy; exceptions; penalty.--

13 (3) The department may enter an order doing one or
14 more of the following if the department finds that a person
15 has violated or is operating in violation of any of the
16 provisions of this section or the rules or orders issued under
17 this section:

18 (a) Issue a notice of noncompliance pursuant to s.
19 120.695.

20 (b) Impose an administrative fine not to exceed \$100
21 for each violation.

22 (c) Direct the person to cease and desist specified
23 activities.

24 (4) The administrative proceedings that could result
25 in the entry of an order imposing any of the penalties
26 specified in subsection (3) are governed by chapter 120.

27 (5) Any moneys recovered by the Department of
28 Agriculture and Consumer Services as a penalty under this
29 section shall be deposited in the General Inspection Trust
30 Fund.

31 Section 3. The amendment to s. 501.95, Florida

Bill No. CS for SB 22-C, 1st Eng.

Barcode 175858

1 Statutes, made by this act applies to all gift cards purchased
2 and credit memos issued on or after June 28, 2007.

3 Section 4. This act shall take effect upon becoming a
4 law.

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7 ===== T I T L E A M E N D M E N T =====

8 And the title is amended as follows:

9 Delete everything before the enacting clause

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11 and insert:

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A bill to be entitled

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An act relating to the Department of

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Agriculture and Consumer Services; amending s.

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501.95, F.S., relating to gift certificates and

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credit memos; limiting application of

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prohibitions to purchased instruments;

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providing for enforcement by the department;

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providing for retroactive application;

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providing an effective date.

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