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An act relating to the Department of
Agriculture and Consumer Services; amending s.
501.95, F.S., relating to gift certificates and
credit memos; limiting application of
prohibitions to purchased instruments;
providing for enforcement by the department;
providing for retroactive application;
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

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,
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, but this term shall not include

1 tickets as specified in s. 717.1355 or manufacturer or
2 retailer discounts and coupons.

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

29 (b) Paragraph (a) does not apply to a gift certificate
30 or credit memo sold or issued by a financial institution, as
31 defined in s. 655.005, or by a money transmitter, as defined

1 in s. 560.103, if the gift certificate or credit memo is
2 redeemable by multiple unaffiliated merchants.

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

5 Section 2. Subsections (3), (4), and (5) of section
6 501.142, Florida Statutes, read:

7 501.142 Retail sales establishments; preemption;
8 notice of refund policy; exceptions; penalty.--

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

14 (a) Issue a notice of noncompliance pursuant to s.
15 120.695.

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

18 (c) Direct the person to cease and desist specified
19 activities.

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

23 (5) Any moneys recovered by the Department of
24 Agriculture and Consumer Services as a penalty under this
25 section shall be deposited in the General Inspection Trust
26 Fund.

27 Section 3. The amendment to s. 501.95, Florida
28 Statutes, made by this act applies to all gift cards purchased
29 and credit memos issued on or after June 28, 2007.

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