

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 826

INTRODUCER: Senator Leek

SUBJECT: Gift Certificates

DATE: January 12, 2026

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|--------------------|
| 1. | McMillan | McKay | CM | Pre-meeting |
| 2. | | | BI | |
| 3. | | | RC | |

I. Summary:

SB 826 expands the definition of “gift certificate” in s. 501.95, F.S., to include a reward card, consumer loyalty card, or promotional gift card, which will provide such cards with some consumer protections relating to expiration dates, expiration periods, and fees.

The bill removes a provision that authorizes a gift card to have an expiration date if it is provided to the recipient, or to a purchaser for transfer to the recipient, as part of a loyalty or promotional program when the recipient does not pay a separate identifiable charge for the certificate. Thus, a gift certificate purchased or credit memo issued in Florida may not have an expiration date, expiration period, or any type of postsale charge or fee imposed when it is provided to the recipient, or to a purchaser for transfer to the recipient, as part of a loyalty program or promotional program.

The bill takes effect July 1, 2026.

II. Present Situation:

Gift Certificates

Section 501.95, F.S., regulates gift certificates and credit memos, and provides that a gift certificate purchased or credit memo issued in Florida may not have an expiration date, expiration period, or any type of postsale charge or fee imposed on the gift certificate or credit memo.¹ However, a gift certificate may have an expiration date of not less than 3 years if it is provided as a charitable contribution, or not less than 1 year if it is provided as a benefit pursuant

¹ Section 501.95(2)(a). This includes, but is not limited to, service charges, dormancy fees, account maintenance fees, or cash-out fees.

to an employee-incentive program, and the expiration date is prominently disclosed in writing to the consumer at the time it is provided.²

Additionally, a gift certificate may have an expiration date if it is provided to the recipient, or to a purchaser for transfer to the recipient, as a part of a loyalty or promotional program when the recipient does not pay a separate identifiable charge for the certificate, or if it is provided in conjunction with a convention, conference, vacation, or event.³ These provisions do not apply to a gift certificate or credit memo sold or issued by a financial institution,⁴ or by a money services business,⁵ if the gift certificate or credit memo is redeemable by multiple unaffiliated merchants.⁶

If a violation of s. 501.95, F.S, occurs, the Department of Agriculture and Consumer Services (DACS) may enter an order doing one or more of the following:

- Impose an administrative fine not to exceed \$100 for each violation; or
- Direct the violator to cease and desist specified activities.⁷

Unclaimed Property

Chapter 717, F.S., is entitled the Florida Disposition of Unclaimed Property Act, over which the Department of Financial Services (DFS) is responsible for administering. Unclaimed property is any funds or other property, tangible or intangible, that has remained unclaimed by the owner for a certain number of years, and it may include savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes.⁸ Every person holding funds or other property, tangible or intangible, presumed unclaimed and subject to custody as unclaimed property must report it to the DFS.⁹ Until claimed, unclaimed money is deposited into the state school fund to be used for public education.¹⁰ There is no statute of limitations and persons may claim their property at any time and at no cost.¹¹

² *Id.*

³ *Id.*

⁴ Section 655.005, F.S., defines "financial institution" as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.

⁵ Section 560.103, F.S., defines "money services business" as any person located in or doing business in this state, from this state, or into this state from locations outside this state or country who acts as a payment instrument seller, foreign currency exchanger, check casher, or money transmitter.

⁶ Section 501.95(2)(b), F.S.

⁷ Section 501.95(2)(c), F.S. *See also* ss. 501.142(3), (4), and (5). The administrative proceedings that could result in the entry of an order imposing any penalties are governed by ch. 120, F.S. Additionally, any moneys recovered by the DACS as a penalty must be deposited in the General Inspection Trust Fund.

⁸ *See* ss. 717.104-717.116, F.S.

⁹ Section 717.117(1), F.S.

¹⁰ Florida Department of Financial Services, *Unclaimed Property General Questions*, available at <https://fltreasurhunt.gov/UP-Web/sitePages/FAQs.jsp> (last visited Jan. 12, 2026).

¹¹ *Id.*

An unredeemed gift certificate or credit memo as defined within s. 501.95, F.S., is not required to be reported as unclaimed property unless the gift certificate or credit memo is sold or issued by a financial institution or a money services business.¹²

Secondhand Dealers

Chapter 538, F.S., regulates secondhand dealers and secondary metal recyclers in the trade of secondhand goods. The purpose of such regulations is to assist law enforcement in recovering stolen property and in solving other theft-related crimes.¹³

A secondhand dealer is defined as any person, corporation, or other business organization or entity that is not a secondary metals recycler and is engaged in purchasing, consigning, or trading secondhand goods. The term also includes a secondhand dealer engaged in purchasing secondhand goods through an automated kiosk.¹⁴

Secondhand goods are previously owned or used personal property purchased, consigned, or traded as used property.¹⁵ The term also includes gift certificates and credit memos¹⁶ that are purchased, consigned, or traded by a secondhand dealer. Secondhand goods do not include office furniture, pianos, books, clothing, organs, coins, motor vehicles, costume jewelry; gold, silver, platinum, palladium, or rhodium bullion that has been assayed and is properly marked as to its weight and fineness; cardio and strength training or conditioning equipment designed primarily for indoor use, and secondhand sports equipment that is not permanently labeled with a serial number.¹⁷

A secondhand dealer must annually register his or her business with the Department of Revenue (DOR).¹⁸

¹² Section 717.1045, F.S. *See also* s. 501.95(2)(b), F.S. Section 655.005, F.S., defines “financial institution” as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq. Section 560.103, F.S., defines “money services business” as any person located in or doing business in this state, from this state, or into this state from locations outside this state or country who acts as a payment instrument seller, foreign currency exchanger, check casher, or money transmitter.

¹³ *See* ss. 538.04, 538.06, F.S. (identifying recordkeeping requirements and holding periods in connection with secondhand goods); *see also* Jarret C. Oeltjen, *Florida Pawnbroking: An Industry in Transition*, 23 FLA. ST. U. L. REV. 995, 1013 (Spring 1996) (noting that “[t]he main impetus behind [ch. 538, F.S.] was to confront the problem of property theft and drug-related crimes by facilitating recovery of stolen goods and apprehending those criminals who may turn to secondhand dealers for cash”).

¹⁴ Section 538.03(1)(h), F.S.

¹⁵ Section 538.03(1)(i), F.S.

¹⁶ Section 501.95, F.S., defines “credit memo” as 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.

¹⁷ Section 538.03(1)(i), F.S.

¹⁸ *See generally* s. 538.09, F.S. (providing for registration).

Penalties

If a law enforcement officer has probable cause to believe that the goods held by a secondhand dealer are stolen, the officer may place a 90-day written hold order on the goods.¹⁹ This prevents the secondhand dealer from selling the goods and preserves them for use as evidence in a criminal trial. Additionally, it allows for the possibility of the goods being returned to their rightful owner.

Law enforcement agencies having jurisdiction to enforce compliance with registration, record keeping, holding periods, and inspection requirements.²⁰ A person who knowingly violates the requirements governing secondhand dealers in ch. 538, F.S., commits a first degree misdemeanor and is subject to a fine not to exceed \$10,000.²¹

III. Effect of Proposed Changes:

The bill amends the definition of “gift certificate” in s. 501.95, F.S., to mean a certificate, gift card, stored value card, reward card, consumer loyalty card, promotional gift card, or similar instrument purchased 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 does not include tickets as specified in s. 717.1355, F.S.,²² or manufacturer or retailer discounts or coupons.

The bill removes a provision that authorizes a gift card to have an expiration date if it is provided to the recipient, or to a purchaser for transfer to the recipient, as part of a loyalty or promotional program when the recipient does not pay a separate identifiable charge for the certificate. Thus, a gift certificate purchased or credit memo issued in Florida may not have an expiration date, expiration period, or any type of postsale charge or fee imposed when it is provided to the recipient, or to a purchaser for transfer to the recipient, as part of a loyalty program or promotional program.

The bill amends ss. 538.03 and 717.1045, F.S., to incorporate the changes made to s. 501.95, F.S.

The bill provides an effective date of July 1, 2026.

¹⁹ Section 538.06(3), F.S.

²⁰ Section 538.05, F.S.

²¹ Section 538.07(1), F.S. A first degree misdemeanor is punishable by up to 1 year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

²² Section 717.1355, F.S., regulates theme park and entertainment complex tickets and provides that ch. 717, F.S., does not apply to any tickets for admission to a theme park or entertainment complex as defined in s. 509.013(9), F.S., or to any tickets to a permanent exhibition or recreational activity within such theme park or entertainment complex. Section 509.013(9), F.S., defines “theme park or entertainment complex” to mean a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually. Chapter 717, F.S., is the “Florida Disposition of Unclaimed Property Act” (see section II “Present Situation” of this bill analysis for an overview of the Florida Disposition of Unclaimed Property Act).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 501.95, 538.03, 717.1045

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
