

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 A.M. on January 31, 2006 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department
Norm Furse, Office of Revisor of Statutes
Renaë Jefferies, Office of Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee:

Representative David Huff
Representative Ray Merrick
Representative John Edmonds
Ron Hein, Kansas Restaurant and Hospitality Association
Emilie Burdette Rush, Office of Attorney General, Consumer Protection Division

Others attending:

See attached list.

The Chairman opened the hearing on **HB 2658 - Gift Certificates - restrictions**.

Staff gave a briefing on **HB 2658**. On and after January 1, 2007, no person, firm, partnership, association or corporation shall sell a gift certificate to a purchaser containing an expiration date. Any gift certificate sold after that date shall be redeemable in cash for its cash value or subject to replacement with a new gift certificate at no cost to the purchaser or holder.

Representative David Huff testified as a proponent to **HB 2658**. When a gift certificate is purchased for in advance there is no reason there should be an expiration date on the certificate. Most, but not all, businesses honor certificates even with an expiration date. Businesses rely on less than 100% redemption of prepaid certificates for extra profit. **HB 2658** eliminates the expiration date when purchasing a gift certificate (Attachment 1).

Representative Ray Merrick testified as a proponent to **HB 2658**. Some stores do not honor a gift certificate at its full value after a period of time. Some stores charge an up front fee. Some restaurants go out of business and the certificate is of no value.

Representative John Edmonds testified in support of **HB 2658**. No vendor should be allowed to take the customer's money and then wiggle out of some or all of the obligation by the use of service charges, expiration dates, or other similar devices. It is not as if money expires, and the vendor actually benefits from inflation if the customer delays, since the certificate loses purchasing power over time. These are acceptable risks, not the near thievery associated with the practices that **HB 2658** addresses (Attachment 2).

Ron Hein, representing the Kansas Restaurant and Hospitality Association, testified in support of **HB 2658** with amendments. Amendments would include striking "in cash" in line 15, striking "in capital letters in at least 10 point font" ... "front of the". In line 23 strike "pursuant to an awards, loyalty or promotional program". Strike the rest of the sentence after "purposes" in line 28. Strike all of (d) and (e) and add Section 3. "Nothing in this act shall be construed to require a business to redeem a digit certificate that was issued by any other business, including a successor entity to the existing business (Attachment 3).

Emilie Burdette Rush, Office of Attorney General Phill Kline, Consumer Protection Division, testified as a proponent to **HB 2658**. The Attorney General's Office has no objection to the limits on gift certificates proposed by **HB 2658**, nor any objection to the inclusion of such provision within the scope of the Kansas Consumer Protection Act.

A quick review of other states statutes reveals that a handful of states, including California, Connecticut,

CONTINUATION SHEET

MINUTES OF THE House Commerce and Labor Committee at 9:00 A.M. on January 31, 2006 in Room 241-N of the Capitol.

Maine and Rhode Island, prohibit gift certificate expiration dates. Several other states stop short of placing an outright prohibition on expiration dates but do set minimum expiration terms. Still other states require all expiration terms to be stated in conspicuous type. A chart summarizing each states' gift certificate and gift card statutes compiled by the National Conference of State Legislatures has been provided for your review (Attachment 4).

Jeff Glendenning, Vice President of Political Affairs, Kansas Chamber of Commerce, provided written testimony neither supporting or opposing **HB 2658** (Attachment 5).

The Chairman suggested the Representative Huff and Mr. Hein get together and work our their differences on the bill.

The Chairman closed the hearing on **HB 2658**.

Staff gave a briefing on the balloon of **SB 269 - Real Estate Brokers and salespersons; escrow account requirements, prohibited acts; rebates** that had discussion yesterday.

Representative Grant moved and Representative Schwab seconded adoption of the balloon on SB 269. The motion carried.

Representative Ruff moved and Representative Huntington seconded to amend SB 269 by deleting on page 1, (2), lines 33 and 34, "according to the 1994 estimates of the U. S. Bureau of the census". The motion carried.

Representative Pauls moved and Representative Kiegerl seconded to move SB 269 out favorably as amended. The motion carried.

The meeting adjourned at 10:00 a.m. The next meeting will be February 1, 2006.

**Chairman Dahl, Vice Chairman Schwab,
Ranking Member Ruff and committee.**

HB-2658 relates to purchasing and redemption of a gift certificate. When you purchase or receive a certificate that has been paid for in advance there is no reason there should be an expiration date on this certificate. The retailer or business had the money in advance.

Most business in Kansas honor certificates even with an expiration date, but some don't. Typically if you have overlooked your certificate, find it, look at the expiration date, and it is expired you throw it away. I had a business tell me that they rely on less than 100% redemption of these prepaid certificates for extra profits. Yes we do have some business who will not redeem a certificate after an expiration date. This is when our citizens truly get perturbed and contact their legislature. HB-2658 eliminates the expiration date when purchasing a gift certificate.

Rep. David Huff

*Comm Labor
1-31-2006
Atch #1*

DICK CLARK'S
AMERICAN BANDSTAND

THIS COUPON HAS NO CASH VALUE AND IS REDEEMABLE AT DICK CLARK'S AMERICAN BANDSTAND RESTAURANTS FOR FOOD AND BEVERAGES ONLY. NOT REDEEMABLE FOR RETAIL, TAX, TIP, OR ALCOHOLIC BEVERAGES. NO CHANGE GIVEN.

ISSUED TO

AUTHORIZATION *George*

DATE

08-20-05

EXPIRES ONE YEAR FROM DATE OF ISSUE



FIVE

FIVE

BANDSTAND BUCK

DICK CLARK'S
AMERICAN BANDSTAND

THIS COUPON HAS NO CASH VALUE AND IS REDEEMABLE AT DICK CLARK'S AMERICAN BANDSTAND RESTAURANTS FOR FOOD AND BEVERAGES ONLY. NOT REDEEMABLE FOR RETAIL, TAX, TIP, OR ALCOHOLIC BEVERAGES. NO CHANGE GIVEN.

ISSUED TO

AUTHORIZATION *George*

DATE

08-20-05

EXPIRES ONE YEAR FROM DATE OF ISSUE



TEN

TEN

TEN

TEN

BANDSTAND BUCK

DICK CLARK'S
AMERICAN BANDSTAND

THIS COUPON HAS NO CASH VALUE AND IS REDEEMABLE AT DICK CLARK'S AMERICAN BANDSTAND RESTAURANTS FOR FOOD AND BEVERAGES ONLY. NOT REDEEMABLE FOR RETAIL, TAX, TIP, OR ALCOHOLIC BEVERAGES. NO CHANGE GIVEN.

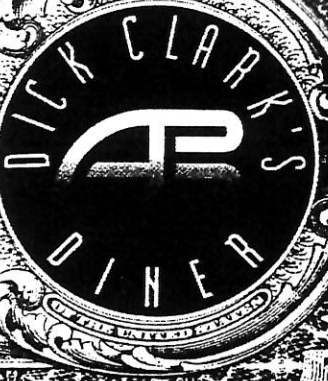
ISSUED TO

AUTHORIZATION *George*

DATE

08-20-05

EXPIRES ONE YEAR FROM DATE OF ISSUE



TEN

TEN

TEN

TEN

BANDSTAND BUCK

BUSINESS ISSUED FOR CHARITY!

GIFT CERTIFICATE

\$25.⁰⁰/₁₀₀

REDEEMABLE AT: Jerrys Bait Shop

IN THE AMOUNT OF: Twenty Five dollars

FOR: Tim Tim 05 ✓ FROM: JERRY

096888 DATE: Exp 9/06 -OK [Signature]
Authorized Signature

OK. TO PUT ON EXPIRATION DATE

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

STATE CAPITOL
300 S.W. TENTH STREET
ROOM 171-W
TOPEKA, KS 66612
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JOHN T. EDMONDS
112TH DISTRICT
CHAIRMAN
COMMITTEE ON FEDERAL AND STATE AFFAIRS
LEGISLATIVE POST AUDIT COMMITTEE
JOINT COMMITTEE ON PENSIONS, INVESTMENTS AND BENEFITS
January 31, 2006

Honorable Don Dahl, Chairman
House Committee on Commerce & Labor

Dear Chairman Dahl:

Thank you for the opportunity to rise in support of Representative Huff and as a proponent of House Bill 2658.

I have long felt that the abuses perpetrated on some consumers by vendors of gift certificates and such are nothing short of unconscionable. No vendor should be allowed to take the customer's money and then wiggle out of some or all of the obligation by the use of service charges, expiration dates, or other similar devices. After all, it's not as if the money expires, and the vendor actually benefits from inflation if the customer delays, since the certificate loses purchasing power over time. But these are acceptable risks, not the near thievery associated with the practices that HB 2658 addresses.

I wish to address one specific point of implementation. You may hear from vendors that the costs of record keeping justify their behavior, or that accounting standards greatly increase the cost of carrying gift certificates and the like on the company books. I will tell you, as a practicing CPA that nothing could be further from the truth. In any retail establishment, the numbers of cash, check and credit card transactions dwarfs the likely volume associated with gift certificates. Any competently run accounting system that can deal with the former can easily deal with the latter. Secondly, although GAAP does call for specific treatment in the recording of contingent liabilities associated with gift certificates, these are intended to be accounted for in the aggregate, not as individuals, and thus would usually be captured by a single monthly or annual journal entry.

Thank you, again, for the opportunity to appear before you. I would hope that the Committee will favorably consider the provisions of HB 2658 and recommend it favorably for passage.

Commerce Labor
1-31-06
Atch #2

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Ronald R. Hein

Attorney-at-Law

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Testimony re: HB 2658
House Commerce and Labor Committee
Presented by Ronald R. Hein
on behalf of
Kansas Restaurant and Hospitality Association
January 31, 2006

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association (KRHA). The KRHA is the trade association for restaurant, hotel, lodging and hospitality businesses in Kansas.

KRHA supports the intent of HB 2658 and would stand in support of the bill with some minor amendments. (See attached balloon amendments.)

For the record, Rep. Huff introduced a similar bill in 2002 which the KRHA opposed. Several of the concerns raised by us at that time have been solved with the legislation before you today. We especially appreciate Rep. Huff addressing our concerns regarding donated gift certificates, as this bill is limited to gift certificates which are purchased for face value.

When a gift certificate is purchased for a stated monetary value, and that gift certificate expires and the recipient of the gift certificate is not able to redeem that certificate due to its expiration, the result is frustration and anger. Most businesses will honor expired gift certificates despite the expiration date because it is good business to do so. They will make a happy customer rather than sending away an unhappy customer who will complain to his or her friends and acquaintances about the "loss" sustained.

However, our Association still has some limited concerns.

As background, different restaurants and lodging facilities utilize different recording and accounting processes regarding gift certificates. There is time and expense involved in providing gift certificates, accounting for them, and keeping track of them. As a general rule, prohibiting an expiration date places the business in a situation where they are not able to get the items off of their books or to recover the cost of accounting for keeping such certificates, **if** those certificates survive over a long period of time (5, 10, 20 or more years).

Commerce Labor
1-31-06
Atch # 3

January 31, 2006

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The KRHA strongly opposes the mandatory redemption of gift certificates for cash (Sec. 1(a)). The business should be able to require the certificate to be redeemable only in goods or services. I believe the factual situation that originally prompted this legislation was a massage gift certificate that wasn't honored. To require a business to pay cash for a service or goods that are offered pursuant to a purchased gift certificate is just as unfair to the business as the expiration date would appear to be to the consumer.

Sec. 1(c)(1) provides an exemption for "gift certificates....distributed...pursuant to an awards, loyalty or promotional program without....value being given in exchange". We appreciate this exemption, and question whether it is necessary since the act only applies to gift certificates which are "sold". However, the exemption makes it clear that gift certificates which are given away are not covered by the act. We believe this exemption must also apply to gift certificates which are given to charitable organizations, or other fund-raising events.

Sec. 1(c)(2) provides an exemption for "gift certificates that are sold below face value at a volume discount to employers or to non-profit and charitable organizations for fund-raising purposes", but the exemption only applies for gift certificates with a redemption period of less than 30 days. We question why the 30-day limitation, and would request the less than 30 day requirement be eliminated.

We would like to see an exemption for successor entities to the original issuing business. If it is necessary to add some language regarding a certain period of time, that would be acceptable. However, if a business sold a coupon when it was ABC Restaurant and the certificate holder comes in 10 years later and attempts to redeem it from the XYZ Restaurant, we believe the new restaurant should not be required by law to redeem the certificate.

We are concerned about national gift certificates and how this legislation might impact them. We are attempting to review other states' legislation, and how they handle national gift certificates. We are also reviewing if there are concerns about counterfeiting in other states.

Lastly, we are concerned because a violation of this section would constitute "an unconscionable act" as defined by K.S.A. 50-627, pursuant to the consumer protection act, which can subject the business to substantial penalties including damages, civil penalties up to \$5,000, and class action lawsuits. This act would not just simply require the business to honor the gift certificate, it would subject the business to substantial litigation costs and penalties well beyond the value of any certificate that would ever be

January 31, 2006

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sold by any of our members. We would suggest that the punishment doesn't fit the crime, especially with regards to a statute which may not be widely known by the public and which is applicable to virtually any business in or out of the state. We would suggest that removing the penalty section completely or imposing a non-criminal fine of the value of the certificate if it is not honored might be a more appropriate remedy.

We would offer to work with Rep. Huff and this committee to resolve our concerns.

Thank you very much for permitting me to testify and I will be happy to yield to questions.

HOUSE BILL No. 2658

By Representative Huff

1-19

9 AN ACT relating to gift certificates; concerning certain restrictions.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (a) On and after January 1, 2007, no person, firm, part-
13 nership, association or corporation shall sell a gift certificate to a pur-
14 chaser containing an expiration date. Any gift certificate sold after that
15 date shall be redeemable ~~in cash~~ for its cash value or subject to replace-
16 ment with a new gift certificate at no cost to the purchaser or holder.

17 (b) A gift certificate sold without an expiration date is valid until re-
18 deemed or replaced.

19 (c) This section shall not apply to any of the following gift certificates
20 issued on and after January 1, 2007, provided the expiration date appears
21 ~~in capital letters in at least 10 point font on the front of the gift certificate:~~

22 (1) Gift certificates that are distributed by the issuer to a consumer
23 ~~pursuant to an awards, loyalty or promotional program~~ without any money
24 or other thing of value being given in exchange for the gift certificate by
25 the consumer; or

26 (2) gift certificates that are sold below face value at a volume discount
27 to employers or to nonprofit and charitable organizations for fund-raising
28 purposes ~~if the expiration date on such gift certificates is not more than~~
29 ~~30 days after the date of sale.~~

30 ~~(d) Violation of this section shall be deemed an unconscionable act~~
31 ~~as defined by K.S.A. 50-627, and amendments thereto.~~

32 ~~(e) This section shall be part of and supplemental to the Kansas con-~~
33 ~~sumer protection act.~~

34 Sec. 2. ~~This act shall take effect and be in force from and after its~~
35 ~~publication in the statute book.~~

Nothing in this act shall be construed to require a business to redeem a gift certificate that was issued by any other business, including a successor entity to the existing business.

Sec. 3.



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION AND ANTITRUST DIVISION

PHILL KLINE
ATTORNEY GENERAL

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CONSUMER HOTLINE (800) 432-2310
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Testimony of
Emilie Burdette Rush
Office of Attorney General Phill Kline
Consumer Protection Division
Before the House Commerce and Labor Committee
Re: HB 2658
January 31, 2006

Members of the Committee:

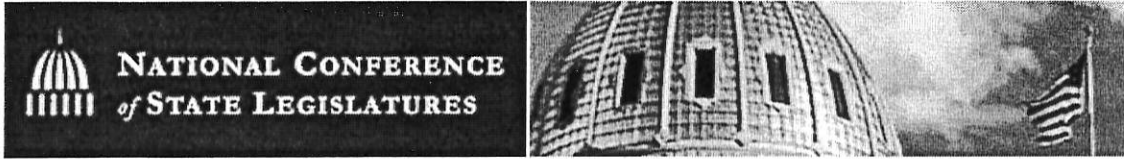
Thank you for the opportunity to appear on behalf of Attorney General Phill Kline and to provide testimony regarding House Bill 2658. The Attorney General's Office has no objection to the limits on gift certificates proposed by this bill, nor any objection to the inclusion of such provision within the scope of the Kansas Consumer Protection Act.

On occasion, the Attorney General's Consumer Protection Division receives complaints from Kansas consumers regarding the expiration of gift certificates and gift cards. Under the current scope of the KCPA, the Attorney General's Office is statutorily authorized to take action on those complaints only in instances where the terms of the gift certificate or gift card are deemed unconscionable under K.S.A. 50-627, such as when an exceedingly brief expiration period is employed. The passage of HB 2658 would certainly broaden the authority of the Consumer Protection Division in this area and would ensure that consumers subjected to expiration terms that are not unconscionable per se have legal recourse.

A quick review of other state statutes reveals that a handful of states, including California, Connecticut, Maine and Rhode Island, prohibit gift certificate expiration dates. Several other states stop short of placing an outright prohibition on expiration dates but do set minimum expiration terms. Still other states require all expiration terms to be stated in conspicuous type. A chart summarizing each states' gift certificate and gift card statutes compiled by the National Conference of State Legislatures has been provided for your review.

In conclusion, the Attorney General's Office offers its support for HB 2658. Thank you for your consideration.

Comm & Labor
1-31-06
Atch # 4



Gift Cards and Gift Certificates Statutes and Recent Legislation

Last Updated: November 8, 2005

NCSL Contact: Heather Morton, Denver (303) 364-7700

STATE STATUTES

State:	Expiration Date Provision:	Fee Provision:	Escheat Provision:
Alabama			2004 Act 440 Ala Code §35-12-70 <i>et seq.</i> Gift certificate is presumed abandoned three years after June 30 of the year it was sold. If redeemable in merchandise only, amount abandoned is 60 percent of the certificate's face value.
Alaska			2004 Chapter 90 Alaska Stat. §34.45.110 <i>et seq.</i> Gift certificate is presumed abandoned three years after is it unclaimed by the owner. Amount presumed abandoned is the price paid by the purchaser for the gift certificate.
Arizona	2005 Chapter 315 Ariz. Rev. Stat. Ann. §44-7202 Must disclose expiration date	2005 Chapter 315 Ariz. Rev. Stat. Ann. §44-7202 Must disclose amount of fee and when fee is incurred	Ariz. Rev. Stat. Ann. §44-301 <i>et seq.</i> Gift certificates/cards are not considered property
Arkansas			Ark. Stat. Ann. §18-28-201(13)(B) Gift certificates are not specifically included.
California	Cal. Civil Code §1749.5-§1749.51 Expiration date prohibited	Cal. Civil Code §1749.5-§1749.51 Dormancy fee allowed; all other fees prohibited	Cal. Civ. Proc. Code §1520.5 Gift certificates purchased after 1997 are not subject to escheat.
Colorado			Colo. Rev. Stat. §38-13-101 <i>et seq.</i> Gift certificate redeemable in cash subject to escheat if unclaimed by owner by more than five years.
Connecticut	2005 Public Act 05-189 Conn. Gen. Stat. §42-460 Expiration date prohibited	2005 Public Act 05-189 2005 Public Act 05-273 Conn. Gen. Stat. §3-60(d) Service fees prohibited	2005 Public Act 05-189 2003 Public Act 03-1 Conn. Gen. Stat. §3-56(a) <i>et seq.</i> The value of a gift certificate that is not redeemed three years after the later of 1) the date of purchase or issuance of the gift certificate, or 2) the date of the last transaction by the owner that increased or decreased the value of the gift certificate, is presumed abandoned.
Delaware			Del. Code Ann. tit. 12, §1197 <i>et seq.</i> If owner dies intestate, is missing for more than five years or abandons property it reverts to the state.

District of Columbia			D.C. Code Ann. §41-101 <i>et seq.</i> Gift certificates and credit memos held or owing in the ordinary course of the holder's business that have remained unclaimed by the owner for more than five years after becoming payable or distributable are presumed abandoned. If a gift certificate or credit memo is redeemable for cash or merchandise, its value for purposes of this chapter shall be the amount paid by the purchaser.
Florida			Fla. Stat. §717.001 <i>et seq.</i> Gift certificates are not specifically included.
Georgia	2005 Act 367 Ga. Code §10-1-393 An expiration date must be conspicuous	2005 Act 367 Ga. Code §10-1-393 Amount of dormancy/non-use fees must be conspicuously printed	Ga. Code §44-12-205 A gift certificate unclaimed by the owner five years after it is issued is abandoned.
Hawaii	2004 Act 136 Hawaii Rev. Stat. §481B-13 An expiration date must be greater than two years and conspicuous; if no expiration date, valid in perpetuity	2004 Act 136 Hawaii Rev. Stat. §481B-13 Service fees prohibited	Hawaii Rev. Stat. §523A-1 <i>et seq.</i> Any property unclaimed by the owner for five years is abandoned; includes gift certificates
Idaho			Idaho Code §14-501 <i>et seq.</i> Any property unclaimed by the owner for five years is abandoned; gift certificates with an expiration date expire as per that date.
Illinois	2004 Public Act 93-945 Ill. Rev. Stat. ch. 815, §505/2QQ Expiration date or toll-free phone number to inquire regarding expiration date must be conspicuous	2004 Public Act 93-945 Ill. Rev. Stat. ch. 815, §505/2QQ All fees, if any, must be disclosed conspicuously on the gift certificate.	2004 Public Act 93-945 Ill. Rev. Stat. ch. 765, §1025/1 <i>et seq.</i> Only applies to gift certificates/cards with an expiration date or fees. After property is abandoned, it reverts to either the state or the holder.
Indiana			Ind. Code §32-34-1-1 Gift certificates and gift cards are exempted from unclaimed property act.

Iowa		Iowa Code §556.9 No fee can be charged unless there is a contract	Iowa Code §556.1 <i>et seq.</i> Gift certificates unclaimed by the owner three years after issuance are abandoned.
Kansas			Kan. Stat. Ann. §58-3934 Gift certificates are not specifically included.
Kentucky			Ky. Rev. Stat. §393.010 Gift certificates are not specifically included.
Louisiana	2004 Act 69 La. Rev. Stat. Ann. §51:1423 An expiration date must be greater than five years and conspicuous	2004 Act 69 La. Rev. Stat. Ann. §51:1423 No service fees; one-time handling fee less than \$1 allowed	La. Rev. Stat. Ann. §9:151 <i>et seq.</i> Gift certificate is presumed abandoned three years after December 31st of the year it was sold.
Maine	2005 Chapter 357 Me. Rev. Stat. Ann. tit. 33, §1953(1)(G) No limit on when owner can redeem gift certificate	2005 Chapter 357 Me. Rev. Stat. Ann. tit. 33, §1953(1)(G) Me. Rev. Stat. Ann. tit. 33, §1956 No service fees; one-time handling fee and added-value fee allowed if disclosed in writing	2005 Chapter 357 Me. Rev. Stat. Ann. tit. 33, §1951 <i>et seq.</i> Gift certificates/cards are presumed abandoned two years after December 31st of the year of the last transaction.
Maryland	2005 Chapter 456 An expiration date must be greater than four years and conspicuous on a gift certificate; gift cards can be subject to an expiration date.	2005 Chapter 456 Service fees cannot be charged until more than four years after gift certificate is sold. Gift cards are subject to service fees without limit.	Md. Commercial Code Ann. §17-101(m) Gift certificates are exempted from unclaimed property act.
Massachusetts	2003 Chapter 18 Mass. Gen. Laws. Ann. ch. 200A, §5D Mass. Gen. Laws Ann. ch. 266, §75C A gift certificate expiration date must be at least seven years after issuance.		Mass. Gen. Laws. Ann. ch. 200A, §1 Gift certificates are exempted from unclaimed property act
Michigan			Mich. Comp. Laws §567.221 <i>et seq.</i> Any property unclaimed by the owner for five years is

			abandoned; includes gift certificates.
Minnesota			Minn. Stat. §345.39 Gift certificates are exempted from definition of intangible property.
Mississippi			Miss. Code Ann. §89-12-1 <i>et seq.</i> Any property unclaimed by the owner for five years is abandoned; includes gift certificates.
Missouri			Mo. Rev. Stat. §447.500 <i>et seq.</i> Intangible property unclaimed by the owner for five years is abandoned; gift certificates not mentioned.
Montana	2005 Chapter 291 Expiration dates prohibited	2005 Chapter 291 Mont. Code Ann. §70-9-806 Service fees on gift certificates prohibited	Mont. Code Ann. §70-9-801 <i>et seq.</i> Gift certificate is presumed abandoned three years after December 31st of the year it was sold. If redeemable in merchandise only, amount abandoned is 60 percent of the certificate's face value.
Nebraska			Neb. Rev. Stat. §69-1301 <i>et seq.</i> A gift certificate unredeemed for more than three years is abandoned. Presumed amount abandoned is the face value of the certificate itself.
Nevada	2005 Chapter 336 Expiration date or a toll-free phone number to inquire regarding expiration date must be conspicuous.	2005 Chapter 336 No service fees within the first year of issuance; after the first year, all fees, if any, must be disclosed on the gift certificate	Nev. Rev. Stat. §120A.010 <i>et seq.</i> Intangible property unclaimed by the owner for three years is abandoned; includes gift certificates.
New Hampshire	N.H. Rev. Stat. Ann. §358-A:2 Expiration date prohibited for gift certificates valued at less than \$100; expiration date allowed for gift certificate valued at more than \$100.	N.H. Rev. Stat. Ann. §358-A:2 Service fees on gift certificates prohibited.	N.H. Rev. Stat. Ann. §471-C:1 <i>et seq.</i> Any gift certificate remitted to the state prior to January 1, 1998 is deemed abandoned.

New Jersey	N.J. Rev. Stat. §56:8-110 Expiration date must be disclosed to purchaser and conspicuously displayed on gift certificate.		N.J. Rev. Stat. §46:30B-1 Gift certificates are not specifically included.
New Mexico			N.M. Stat. Ann. §7-8A-1 <i>et seq.</i> Gift certificate is presumed abandoned three years after December 31st of the year it was sold. If redeemable in merchandise only, amount abandoned is 60 percent of the certificate's face value.
New York	2004 Chapter 171 2004 Chapter 507 N.Y. General Business law §396-i Expiration date must be conspicuously disclosed to purchaser	2004 Chapter 171 N.Y. General Business law §396-i Any service fees must be conspicuously disclosed to purchaser; no service fee before the 13 th month after issuance.	2004 Chapter 170 N.Y. Abandoned Property Law §103 N.Y. Abandoned Property Law §1315 Property unclaimed by the owner for five years is abandoned; gift certificates are included.
North Carolina		N.C. Gen. Stat. §116B-57 Reasonable dormancy fee may be assessed on abandoned property	N.C. Gen. Stat. §116B-51 <i>et seq.</i> Gift certificate with an expiration date is presumed abandoned three years after the year it was sold. Amount abandoned is 60 percent of the certificate's face value.
North Dakota	2005 S.B. 2335 N.D. Cent. Code §51-29-02 An expiration date must be more than six years	2005 S.B. 2335 N.D. Cent. Code §51-29-02 Service fees prohibited	N.D. Cent. Code §47-30.1-01 <i>et seq.</i> Gift certificates are not specifically included.
Ohio			Ohio Rev. Code Ann. §169.01(B)(2)(d) Gift certificates are exempted from unclaimed property fund.
Oklahoma	2005 Chapter 233 An expiration date must be greater than five years.	2005 Chapter 233 Service fees prohibited	Okla. Stat. tit. 60, §651 <i>et seq.</i> Gift certificates are not specifically included.
Oregon			Or. Rev. Stat. §98.302(8) Gift certificates are not specifically included.
Pennsylvania			Pa. Cons. Stat. tit. 72, §1301 <i>et seq.</i> Gift certificates not specifically included.

Rhode Island	2004 Chapter 548 R.I. Gen. Laws §6-13-12 Expiration dates prohibited	2004 Chapter 548 R.I. Gen. Laws §6-13-12 Service fees prohibited	2005 Chapter 202 R.I. Gen. Laws §33-21.1-1 <i>et seq.</i> A gift certificate is never presumed abandoned.
South Carolina	2004 H.B. 4688 S.C. Code Ann. §39-1-55 Disclosed expiration date allowed; if undisclosed, can't be less than one year.		S.C. Code Ann. §27-18-10 <i>et seq.</i> Gift certificates are not specifically included.
South Dakota			S.D. Codified Laws Ann. §43-41B-1 <i>et seq.</i> A gift certificate unclaimed by its owner five years after it was sold is abandoned. Amount abandoned is the price paid by the purchaser for the certificate.
Tennessee			Tenn. Code Ann. §66-29-135 Gift certificate is presumed abandoned if it remains unclaimed either before the expiration date or two years after it is issued. Amount abandoned is the price paid by the purchaser of the certificate. If the certificate is redeemable for merchandise only, amount abandoned is 60 percent of price paid by purchaser for the certificate. A gift certificate issued after December 31, 1998, shall not be abandoned property and shall not be subject to this part if the issuer of the certificate does not impose a dormancy charge and when the gift certificate: 1) Conspicuously states that the gift certificate does not expire; 2) Bears no expiration date; or 3) States that a date of expiration printed on the gift certificate is not applicable in Tennessee. Property described above, without regard to any activity or inactivity within the past five years, shall also be presumed abandoned if the owner thereof is known to the holder to have died and left no one to take such property by will and no one to take such property by intestate succession.
Texas	2005 S.B. 446 Tex. Business & Commerce Code Ann. §35.42 Expiration date must be disclosed to purchaser	2005 S.B. 446 Tex. Business & Commerce Code Ann. §35.42 Any fee or charge must be disclosed to purchaser.	Tex. Property Code Ann. §72.1016 The stored value card is presumed abandoned to the extent of its unredeemed value on the earlier of: the card's expiration date; or three years after the card was issued, if the card is not used after it is issued, or the date the card was last used.
Utah			Utah Code Ann. §67-4a-101 <i>et seq.</i> A gift certificate greater than \$25 is abandoned if it is unused for five years. The amount considered abandoned is the amount paid for the gift certificate itself.

Vermont	2005 Act 39 Vt. Stat. Ann. tit. 8, §2701 <i>et seq.</i> An expiration date must be greater than three years and conspicuous.	2005 Act 39 Vt. Stat. Ann. tit. 8, §2701 <i>et seq.</i> Service fees prohibited	Vt. Stat. Ann. tit. 27, §1208 <i>et seq.</i> Gift certificates are not specifically included.
Virginia	2005 Chapter 269 and 303 Va. Code §59.1-531 Expiration date, toll-free phone number, or Web site to inquire regarding expiration date must be conspicuous.	2005 Chapter 269 and 303 Va. Code §59.1-531 Requires all fees to be disclosed.	Va. Code §55-210.1 <i>et seq.</i> A gift certificate is abandoned if it is unclaimed by the owner for greater than five years.
Virgin Islands			V.I.C. tit. 28, §652 <i>et seq.</i>
Washington	2004 Chapter 168 Wash. Rev. Code §19.240.005 <i>et seq.</i> Expiration date allowed when no money paid for gift certificate or when certificate is valid for artistic or cultural organizations and disclosed to the user.	2004 Chapter 168 Wash. Rev. Code §19.240.005 <i>et seq.</i> Dormancy fees are allowed if disclosed to the purchaser and if the card hasn't been used in at least 24 consecutive months.	Wash. Rev. Code §63.29.010 <i>et seq.</i> A gift certificate is presumed abandoned if it is unclaimed for more than three years, and if it was purchased with consideration.
West Virginia			W. Va. Code §36-8-1 <i>et seq.</i> Gift certificate is presumed abandoned three years after December 31st of the year it was sold. If redeemable in merchandise only, amount abandoned is 60 percent of the certificate's face value.
Wisconsin			Wis. Stat. §177.01 <i>et seq.</i> Gift certificates are not specifically included.
Wyoming			Wyo. Stat. §34-24-100 <i>et seq.</i> A gift certificate greater than \$100 and unredeemed for three years is presumed abandoned. The amount deemed abandoned is the price paid for the certificate itself.

STATE LEGISLATION

2005 Legislation

Legislative Testimony

HB 2658

Tuesday, January 31, 2006

Testimony before the Kansas Commerce and Labor Committee
By Jeff Glendening, Vice President of Political Affairs

Mr. Chairman and members of the Committee;

My name is Jeff Glendening, and I would like to address a few concerns over HB 2658 on behalf of the Kansas Chamber and its 10,000 members. The Kansas Chamber is not in support or opposition of HB 2658, but would like to provide information to the Committee given to us by our retail members

HB 2658 would require that a gift certificate purchased by a consumer be valid until redeemed or replaced. We realize that there are provisions in the bill that would allow expiration dates to be valid; however, there are still concerns worthy of noting.

Kansas retailers state that expiration dates encourage customers to remember their gift certificates and to use them. Gift certificates are voluntary and are offered by a company as a convenience to its customers. If too many restrictions are placed on them, the value of issuing them may be diminished. Our retailer members have stated that only .5% of gift certificates are redeemed after 24 months.

In addition, if this bill is enacted, a retailer must carry any unused gift certificate amount forward on their balance sheets. Our retail members state that the offsetting cash to balance out old gift certificates must be escrowed until the gift certificate is redeemed.

Also, retailers have expiration dates on their gift certificates because in many of our retailer's stores the company cannot recognize the financial benefit of the transaction until the certificate is redeemed or it expires. For retailers that issue many gift certificates, this may turn into a bookkeeping nightmare.

Finally, an expiration date is consistent with IRS requirements for taking gift certificates into income. If the gift certificate is not redeemed for merchandise, the full value of the gift certificate must be taken into income as tax purposes after two years.

We appreciate the committee's consideration of retailer concerns. Thank you for your time and I will be happy to answer any questions.

The Kansas Chamber, with headquarters in Topeka, is the statewide business advocacy group moving Kansas towards becoming the best state in America to do business. The Kansas Chamber and its affiliate organization, The Kansas Chamber Federation, have more than 10,000 member businesses, including local and regional chambers of commerce and trade organizations. The Chamber represents small, medium and large employers all across Kansas.

Comm & Labor
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Atch 5



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