

HOUSE No. 239

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to Consumer Gift Cards..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 93A of the General Laws is hereby amended by adding the
2 following section:-

3 Section 12. (a) In this section the term “gift card” shall mean a prefunded record
4 evidencing a promise that the issuer will provide goods or services to the holder of the record in
5 the amount shown in the record. A gift card does not include gift certificates distributed by the
6 issuer to a consumer pursuant to an awards, loyalty, or promotional program without any money
7 or other thing of value given in exchange for the gift certificate by the consumer.

8 (b) A person may not sell a gift card: (1) that has an expiration date; (2) that has a face
9 value that declines as a result of the passage of time or the lack of use of the card; or (3) that has
10 a fee.

11 (c) A gift card with a remaining value of \$10 or less may be redeemed in cash for its cash
12 value.

13 (d) The value paid by a purchaser of a gift card to the issuer of the gift card is trust
14 property held by the issuer, or its successors in interest, as trustee for the benefit of the holder of
15 the gift card.

16 (e) The total value represented by all gift cards shall be held in a trust in either a (1)
17 separate non-interest bearing account, in any bank or lending institution subject to regulation by
18 this state or any agency of the United States.; or (2) in a separate interest bearing account, in any
19 bank or lending institution subject to regulation by this state or any agency of the United States
20 government, in which case the issuer shall receive and collect interest; provided, that in either
21 case the issuer shall not commingle such gift card monies with any other funds, and shall
22 maintain records allocating such monies to individual beneficiaries

23 (f) This section does not alter the terms of a gift card.

24 (g) This section does not require, unless otherwise required by law, the issuer of a gift
25 card to: (1) redeem a gift card for cash, unless the remaining value is \$10 or less; or (2) replace a
26 gift card that has been lost or stolen.

27 (h) This section does not create an interest in favor of a beneficiary, or to the legal
28 representative of a beneficiary of the gift card in any specific property of the issuer.

29 (i) This section does not require the issuer of a gift card to pay interest on the value of
30 the gift card held in trust under this section, unless otherwise provided by law.

31 SECTION 2. Section 1 of chapter 255D of the General Laws, as appearing in the 2006
32 Official Edition, is hereby amended by striking out the definition of “Gift certificate” and
33 inserting in place thereof the following definition:-

34 “Gift card”, a writing identified as a gift card purchased by a buyer for use by a person
35 other than the buyer not redeemable in cash and usable in its face amount in lieu of cash in
36 exchange for goods or services supplied by the seller. A gift card shall include an electronic card
37 with a banked dollar value, a merchandise credit, a certificate where the issuer has received
38 payment for the full face value for the future purchase or delivery of goods or services and any
39 other medium that evidences the giving of consideration in exchange for the right to redeem the
40 certificate, electronic card or other medium for goods, food, services, credit or money of at least
41 an equal value. A gift card shall not include pre-paid calling arrangements, as defined in section
42 1 of chapter 64H, or any electronic card usable with multiple unaffiliated sellers of goods or
43 services.

44 SECTION 3. Said section 1 of said chapter 255D, as so appearing, is hereby further
45 amended by striking out, in line 26, the word “certificate” and inserting in place thereof the
46 following word:- card.

47 SECTION 4. Said section 1 of said chapter 255D, as so appearing, is hereby further
48 amended by striking out, in line 42, the word “certificate” and inserting in place thereof the
49 following word:- card.

50 SECTION 5. Chapter 266 of the General Laws is hereby amended by striking out section
51 75C and inserting in place thereof the following section:-

52 Whoever sells or offers to sell a gift card as defined in section 12 of chapter 93A which
53 imposes a time limit within which such gift may be redeemed, shall be punished by a fine of not
54 more than \$300. Whoever, after having sold a gift card refuses to redeem the card shall be
55 punished by a fine of not more than \$300.

SECTION 6. This act applies to gift cards sold on or after November 1, 2009.