

CHAPTER 14

AN ACT concerning stored value cards, amending P.L.2010, c.25 and P.L.2002, c.14 and supplementing chapter 30B of Title 46 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.2010, c.25 (C.46:30B-42.1) is amended to read as follows:

C.46:30B-42.1 Presumption of abandonment of stored value card; exceptions; cash redemption.

5. a. A stored value card for which there has been no stored value card activity for five years is presumed abandoned. This subsection shall apply to any stored value card issued on or after July 1, 2010.

b. The proceeds of a general purpose reloadable card presumed abandoned shall be the value of the card, in money, on the date the general purpose reloadable card is presumed abandoned. The proceeds of all other stored value cards presumed abandoned shall be 60% of the value of the card, in money, on the date the stored value card is presumed abandoned.

c. Beginning the first day of the 49th month following the date of enactment of P.L.2012, c.14, an issuer of a stored value card shall obtain the name and address of the purchaser or owner of each stored value card issued or sold and shall, at a minimum, maintain a record of the zip code of the owner or purchaser.

d. Nothing in this section shall be construed to prevent an issuer from honoring a stored value card, the unredeemed value of which has been reported to the State Treasurer pursuant to R.S.46:30B-1 et seq., and thereafter seeking reimbursement from the State Treasurer pursuant to R.S.46:30B-62.

e. This section does not apply to:

(1) a stored value card that is distributed by the issuer, directly or indirectly, to a person under a promotional, incentive, rewards, or customer loyalty program or a charitable program for which no direct monetary consideration is paid by the owner;

(2) a stored value card that is donated or sold below face value to a nonprofit or charitable organization or an educational organization;

(3) a stored value card that is redeemable for admission to events or venues at a particular location or group of affiliated locations, or for goods or services in conjunction with admission to those events or venues, or both, at the event or venue or at specific locations affiliated with and in geographic proximity to the event or venue; and

(4) a stored value card issued by any issuer that in the past year sold stored value cards with a face value of \$250,000 or less. For purposes of this subsection, sales of stored value cards by businesses that operate either (1) under the same trade name as or under common ownership or control with another business or businesses in the State, or (2) as franchised outlets of a parent business, shall be considered sales by a single issuer.

f. The State Treasurer is authorized to grant an exemption from such provisions concerning stored value cards, on such terms and conditions as the State Treasurer may require, for a business or class of businesses that demonstrate good cause to the satisfaction of the State Treasurer. In exercising his discretion pursuant to this section, the State Treasurer may consider relevant factors including, but not limited to, the amount of stored value card transactions processed, the technology in place, whether or not stored value cards issued contain a microprocessor chip, magnetic strip, or other means designed to trace and capture information about place and date of purchase, and such other factors as the State Treasurer shall deem relevant.

g. Notwithstanding the provisions of this act or any other law to the contrary, only a stored value card which is exempt from the provisions of this act pursuant to subsection e. or f. of this section shall be deemed a gift card or gift certificate for purposes of P.L.2002, c.14 (C.56:8-110 et seq.).

h. Beginning September 1, 2012 if a stored value card is redeemed and a balance of less than \$5 remains on the card after redemption, at the owner's request the merchant or other entity redeeming the card shall refund the balance in cash to the owner.

A merchant or other entity required to comply with the provisions of this subsection shall be liable to a penalty of \$500 for each violation plus restitution of the amount of the cash value remaining on the stored value card, provided however that the amount of the penalty shall be trebled for an aggregate of 100 such violations occurring during any 12 month period. Failure to provide requested cash redemption for each stored value card shall be considered a separate violation. Upon receiving evidence of any violation of the provisions of this subsection, the Director of the Division of Consumer Affairs, or the director's designee, is empowered to hold hearings upon those violations and upon finding the violation to have been committed, to assess a penalty against the person alleged to have committed the violation in the amounts provided in this subsection. The director shall thereafter return to the owner of the card the amount of the cash value remaining on the card recovered under this subsection, and this shall be the sole remedy available to the owner for those violations.

This subsection does not impose on an issuer or merchant or other entity required to comply with the provisions of this subsection an obligation to advertise the availability of a refund balance redemption. Notwithstanding the foregoing or any provision in section 3 of P.L.1981, c.454 (C.56:12-16), an issuer, seller or redeemer of stored value cards may elect to include a disclosure or may, in the alternative, include a statement on the stored value card or other marketing materials that the card "is not redeemable for cash except as required by law" or similar statement.

This subsection shall not apply to (1) a non-reloadable stored value card with an initial value of \$5 or less; or (2) a stored value card that is not purchased but is provided in lieu of a refund for returned merchandise; or (3) a stored value card that can be redeemed at multiple merchants that are not under common ownership or control, including but not limited to network-branded stored value cards.

i. The funds associated with a stored value card sold on or after December 1, 2012 shall be valid until redemption and shall not expire. However, a stored value card may contain an expiration date to the extent permitted by federal law that applies only to the card or other tangible medium through which the underlying funds can be accessed, provided those underlying funds do not expire.

j. For stored value cards sold on or after December 1, 2012, in addition to the requirements of section 37 of P.L.2002, c.35 (C.46:30B-43.1), no fees or charges shall be imposed on a stored value card except that the issuer may charge (1) an activation, issuance, purchase or similar fee related to the issuance and purchase of a stored value card and for each occurrence of adding value to an existing stored value card; and (2) a replacement card fee with respect to lost, stolen or damaged stored value cards provided that these fees are disclosed in writing prior to issuance or referenced on the stored value card or the stored value card packaging. The State Treasurer may adopt regulations regarding the establishment of activation, issuance, purchase or similar fees, fees for adding value to an existing stored value card, and replacement card fees.

A general purpose reloadable card shall not be subject to the provisions of this subsection.

k. As used in this section:

"Stored value card activity" means the purchase or issuance of the stored value card, a transaction executed by the owner that increased or decreased the value of the stored value card, or communication by the owner of the stored value card with the issuer of the stored value card concerning the value of the balance remaining on the stored value card as evidenced by a contemporaneous record prepared by or on behalf of the issuer.

"Issuer" means an issuer of a stored value card that is a person, retailer, merchant, vendor, provider or business association with the obligations of a holder to accept the stored value card as redeemable for, solely or a combination of, merchandise, services, or cash, and to report and deliver proceeds of the stored value card if abandoned.

"General purpose reloadable card" means a stored value card issued by a bank or other similarly regulated financial institution or by a licensed money transmitter that is (1) usable and honored upon presentation at multiple merchants or service providers that are not under common ownership or control for goods or services or at automated teller machines, (2) issued in a requested prepaid amount which amount may be, at the option of the issuer, increased in value or reloaded if requested by the cardholder, and (3) not marketed or labeled as a gift card; the term "reloadable card" includes a temporary non-reloadable card issued solely in connection with a reloadable card.

2. Section 1 of P.L.2002, c.14 (C.56:8-110) is amended to read as follows:

C.56:8-110 Gift certificate, card, validity, terms, required; definitions.

1. a. A gift certificate or gift card sold after the effective date of this amendatory act shall retain full unused value until presented in exchange for merchandise, or shall have any and all conditions and limitations, as permitted in paragraphs (1) through (3) of this subsection, disclosed to the purchaser of the gift certificate or gift card at the time of purchase as provided in subsection b. of this section.

(1) In no case shall the underlying funds associated with a gift certificate or gift card expire within the 24 months immediately following the date of sale.

(2) No dormancy fee shall be charged against a gift certificate or a gift card within the 24 months immediately following the date of sale, nor shall one be charged within the 24 months immediately following the most recent activity or transaction in which the certificate or card was used.

(3) A dormancy fee charged against a gift certificate or gift card as permitted by this subsection shall not exceed \$2.00 per month.

b. The terms of any expiration date or dormancy fee applicable to a gift certificate or gift card, as permitted by subsection a. of this section, shall be disclosed to a consumer by:

(1) written notice of the expiration date or dormancy fee or both printed in at least 10 point font, on the gift certificate or gift card, or the sales receipt for the certificate or card, or the package for the certificate or card; and

(2) written notice, in at least 10 point font, on the gift certificate or gift card, or the sales receipt for the certificate or card, or the package for the certificate or card, of a telephone number which the consumer may call, for information concerning any expiration date or dormancy fee.

c. Beginning September 1, 2012 if a stored value card deemed a gift card or gift certificate pursuant to section 5 of P.L.2010, c.25 (C.46:30B-42.1) is redeemed and a balance

of less than \$5 remains on the card after redemption, at the owner's request the merchant or other entity redeeming the card shall refund the balance in cash to the owner.

A merchant or other entity required to comply with the provisions of this subsection shall be liable to a penalty of \$500 for each violation plus restitution of the amount of the cash value remaining on the stored value card, provided however that the amount of the penalty shall be trebled for an aggregate of 100 such violations occurring during any 12-month period. Failure to provide requested cash redemption for each stored value card shall be considered a separate violation. Upon receiving evidence of any violation of the provisions of this subsection, the Director of the Division of Consumer Affairs, or the director's designee, is empowered to hold hearings upon those violations and upon finding the violation to have been committed, to assess a penalty against the person alleged to have committed the violation in the amounts provided in this subsection. The director shall thereafter return to the owner of the card the amount of the cash value remaining on the card recovered under this subsection, and this shall be the sole remedy available to the owner for those violations.

This subsection does not impose on an issuer or merchant or other entity required to comply with the provisions of this subsection an obligation to advertise the availability of a refund balance redemption. Notwithstanding the foregoing or any provision in section 3 of P.L.1981, c.454 (C.56:12-16), an issuer, seller or redeemer of stored value cards may elect to include a disclosure or may, in the alternative, include a statement on the stored value card or other marketing materials that the card "is not redeemable for cash except as required by law" or similar statement.

This subsection shall not apply to (1) a non-reloadable stored value card with an initial value of \$5 or less; or (2) a stored value card that is not purchased but is provided in lieu of a refund for returned merchandise; or (3) a stored value card that can be redeemed at multiple merchants that are not under common ownership or control, including but not limited to network-branded stored value cards; or (4) a rewards card; or (5) a stored value card that is donated or sold below face value to a nonprofit or charitable organization or an educational organization; or (6) a stored value card that is redeemable for admission to events or venues at a particular location or group of affiliated locations, or for goods or services in conjunction with admission to those events or venues, or both, at the event or venue or at specific locations affiliated with and in geographic proximity to the event or venue.

d. As used in this section:

"Dormancy fee" means a charge imposed against the unused value of a gift card or gift certificate due to inactivity;

"Gift card" means a tangible device, whereon is embedded or encoded in an electronic or other format a value issued in exchange for payment, which promises to provide to the bearer merchandise of equal value to the remaining balance of the device. "Gift card" does not include a prepaid telecommunications or technology card, prepaid bank card or rewards card;

"Gift certificate" means a written promise given in exchange for payment to provide merchandise in a specified amount or of equal value to the bearer of the certificate. "Gift certificate" does not include a prepaid telecommunications or technology card, prepaid bank card or rewards card;

"Merchandise" means and includes any objects, wares, goods, commodities, services or anything offered, directly or indirectly, to the public for sale;

"Prepaid bank card" means a general use, prepaid card or other electronic payment device that is issued by a bank or other financial institution, or a licensed money transmitter, in a

pre-denominated amount usable at multiple, unaffiliated merchants or at automated teller machines, or both, but shall not include a card issued by a retail merchant;

"Prepaid telecommunications or technology card" includes, but is not limited to: a prepaid telephone calling card; prepaid technical support card; or prepaid Internet disk distributed to or purchased by a consumer; and

"Rewards card" means a card or certificate distributed by the issuer to a consumer pursuant to an awards, loyalty, rewards or promotional program, without any money or other consideration or thing of value by the consumer in exchange for the card or certificate.

3. Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State Treasurer may adopt immediately upon filing with the Office of Administrative Law such regulations as the State Treasurer deems necessary to implement the provisions of P.L.2012, c.14, which regulations shall be effective for a period not to exceed 180 days following the date of enactment of P.L.2012, c.14 and may thereafter be amended, adopted, or readopted by the State Treasurer in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

4. This act shall take effect immediately.

Approved June 29, 2012.