

ACT 236

H.B. NO. 314

A Bill for an Act Relating to Gift Certificates.

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

SECTION 1. Section 481B-13, Hawaii Revised Statutes, is amended to read as follows:

“§481B-13 Gift certificates. (a) Any restaurant or person engaged in the business of offering services or goods for sale at retail may allow customers to purchase gift certificates. A certificate issuer shall not charge a service fee, including but not limited to a service fee for dormancy or inactivity. Any activation or issuance fee charged shall not exceed the lesser of ten per cent of the face value of the certificate or \$5.

(b) The date of issuance and the expiration date shall be clearly identified on the face of the gift certificate, or, if an electronic card with a banked dollar value, clearly printed upon a sales receipt transferred to the purchaser of the electronic card upon the completed transaction. The expiration date shall be not less than five years after the date of issuance; provided that the expiration date of certificates issued only in paper form shall be not less than two years after the date of issuance. If the gift certificate does not have an expiration date, it shall be valid in perpetuity.

(c) For any gift certificate with a remaining balance less than \$5, the certificate issuer shall redeem the remaining value of the gift certificate for cash.

~~[(e)]~~ (d) Gift certificates that are issued as part of an awards, loyalty, or promotional program, or to a not-for-profit charity organization, where no money or anything of value is given to the issuer by the consumer in exchange for the gift certificate, are exempt from this section; provided that the expiration date, if any, appears on the gift certificate or accompanying printed receipt.

~~[(d)]~~ (e) Any violation of this section shall constitute an unfair or deceptive act or practice in the conduct of trade or commerce within the meaning of section 480-2.

~~[(e)]~~ (f) As used in this section, unless the context requires otherwise:

“Certificate issuer” or “issuer” means a restaurant or a person engaged in the business of offering services or goods for sale at retail who sells gift certificates to customers.

“Gift certificate” or “certificate” includes any electronic card with a banked dollar value where the issuer has received payment for the full banked dollar value for the future purchase or delivery of goods or services, any certificate where the issuer has received payment for the full face value of the certificate for future purchases or delivery of goods or services, and any other medium that evidences the giving of consideration in exchange for the right to redeem the certificate, electronic card, or other medium for goods, food, or services of at least an equal value. “Gift certificate” or “certificate” does not include a card, certificate, or other medium that is:

- (1) Used solely for telephone services;
- (2) Reloadable and not marketed or labeled as a gift card, gift certificate, or certificate;
- (3) A loyalty, award, or promotional gift card;
- (4) Not marketed to the general public; or
- (5) Redeemable solely for admission to events or venues at a particular location or group of affiliated locations, which may also include services or goods obtainable:
 - (A) At the event or venue after admission; or
 - (B) In conjunction with admission to such events or venues, at specific locations affiliated with and in geographic proximity to the event or venue.

“Service fee” means a periodic fee, charge, or penalty for holding or use of a gift certificate, but does not include a one-time initial activation or issuance fee.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 2020.

(Approved July 2, 2019.)