

1-1 By: Campbell (Senate Sponsor - Williams) H.B. No. 650  
1-2 (In the Senate - Received from the House May 19, 2003;  
1-3 May 20, 2003, read first time and referred to Committee on Business  
1-4 and Commerce; May 23, 2003, reported favorably by the following  
1-5 vote: Yeas 9, Nays 0; May 23, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the expiration or reduction in value of a gift  
1-9 certificate.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter D, Chapter 35, Business & Commerce  
1-12 Code, is amended by adding Section 35.58 to read as follows:

1-13 Sec. 35.58. EXPIRATION OF GIFT CERTIFICATE PROHIBITED. (a)  
1-14 In this section, "gift certificate" means a certificate that is  
1-15 issued or sold by a person engaged in the business of offering goods  
1-16 or services for sale at retail and that entitles a recipient of the  
1-17 certificate to the delivery of goods or services from the person who  
1-18 issued or sold the certificate. The term includes a gift card used  
1-19 for the same purpose as a gift certificate.

1-20 (b) A person may not issue or sell a gift certificate that  
1-21 provides that the certificate expires before the second anniversary  
1-22 of the date on which the certificate is issued or sold. A gift  
1-23 certificate that contains an expiration date prohibited by this  
1-24 subsection expires on the second anniversary of the date on which  
1-25 the certificate is issued or sold.

1-26 (c) Subsection (b) does not apply to a gift certificate:

1-27 (1) that states the expiration date on the front of the  
1-28 certificate in capitalized letters in at least 10-point type; and

1-29 (2) that is:

1-30 (A) distributed by the issuer to a consumer under  
1-31 an awards, loyalty, or promotional program without the consumer  
1-32 giving money in exchange for the certificate;

1-33 (B) sold below face value at a volume discount to  
1-34 an employer or a nonprofit or charitable organization for  
1-35 fund-raising purposes, if the expiration date is not more than 30  
1-36 days after the date of the sale; or

1-37 (C) issued for a food product.

1-38 (d) A condition relating to the use of a gift certificate  
1-39 must be clearly stated on the certificate, the envelope or covering  
1-40 of the certificate, or the receipt given to the purchaser of the  
1-41 certificate, if the condition provides that the certificate  
1-42 decreases in value over a period of time or that a fee is charged  
1-43 against the balance of the certificate after a certain period of  
1-44 time. A gift certificate that does not clearly state a condition  
1-45 described by this subsection may be redeemed at any time for the  
1-46 original value of the certificate, less any amount charged against  
1-47 the balance of the certificate by the consumer.

1-48 SECTION 2. The change in law made by Section 35.58, Business  
1-49 & Commerce Code, as added by this Act, applies only to a gift  
1-50 certificate issued or sold on or after the effective date of this  
1-51 Act. A gift certificate issued or sold before the effective date of  
1-52 this Act is governed by the law in effect when the certificate was  
1-53 issued or sold, and the former law is continued in effect for that  
1-54 purpose.

1-55 SECTION 3. This Act takes effect September 1, 2003.

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