

BILL ANALYSIS

Senate Research Center

S.B. 446
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Business & Commerce
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, gift cards exist that expire after 12 or 24 months or have monthly inactivity charges if unused. It has become apparent that too many gift cards include unexpected fees and restrictive expiration dates that can limit their usefulness and exhaust their value. A number of states, including California, Massachusetts, New York, Rhode Island, and Washington, have either passed laws or taken legal action in response to unreasonable gift card fees.

S.B. 446 ensures that consumers will receive the full value of gift card purchases and that their rights will be fully protected

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 35, Business & Commerce Code, by adding Section 35.42, as follows:

Sec. 35.42. REDUCTION IN VALUE OR EXPIRATION OF STORED VALUE CARD. Defines "record," "stored value card," and "use." Provides that this section does not apply to certain stored value cards. Authorizes the issuer of a stored value card to impose and collect reasonable fees and charges, as specified. Requires an expiration date or policy, fee, or other material restriction or contract term applicable to a stored value card to be clearly and conspicuously disclosed, as specified. Provides that a stored value card that is sold without the disclosure as required by this section of an expiration date or policy, fee, or other material restriction or contract term applicable to the card is valid until redeemed or replaced. Provides that this section does not create a cause of action against a person who issues or sells a stored value card.

SECTION 2. Amends Subsection (a), Section 72.101, Property Code, as follows:

(a) Adds a reference to Section 72.1016 as an additional exception to the provision that personal property is presumed abandoned under certain circumstances.

SECTION 3. Amends Subchapter B, Chapter 72, Property Code, by adding Section 72.1016, as follows:

Sec. 72.1016. STORED VALUE CARD. (a) Provides that this section applies to a stored value card, as defined by Section 35.42(a), Business & Commerce Code. Provides exceptions.

(b) Provides that the stored value card is presumed abandoned to the extent of its unredeemed and uncharged value on a certain date, if the existence and location of the owner of a stored value card is unknown to the holder of the property.

(c) Provides that the address of the apparent owner of a stored value card is considered to be the Austin, Texas, address of the comptroller, under certain circumstances.

(d) Authorizes a person to charge a fee against a stored value card as provided by Section 35.42, Business & Commerce Code. Prohibits the fee from being charged against a stored value card after the card is presumed abandoned under this section.

(e) Requires the comptroller to transfer five percent of the money collected from cards presumed to be abandoned for use as grants under Subchapter M, Chapter 56, Education Code.

(f) Provides that this section does not create a cause of action against a person who issued or sells a stored value card.

SECTION 4. Amends Section 72.103, Property Code, to make conforming changes.

SECTION 5. Amends Section 73.001(a)(1), Property Code, to redefine "account," to include funds received by a depository in exchange for the purchase of a stored value card.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2005.