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H.B. No. 1771

A BILL TO BE ENTITLED

AN ACT

relating to the reduction in value or abandonment of stored value
cards.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 604.002, Business & Commerce Code, is
amended to read as follows:

Sec. 604.002. INAPPLICABILITY OF CHAPTER. This chapter
does not apply to a stored value card that:

(1) is issued by:

(A) a financial institution acting as a financial
agent of the United States or this state;

(B) a federally insured financial institution,
as defined by Section 201.101, Finance Code, if the financial
institution is primarily liable for the card as the issuing
principal; or

(C) an air carrier holding a certificate of
public convenience and necessity under Title 49, United States
Code;

(2) is issued as a prepaid calling card by a prepaid
calling card company regulated under Section 55.253, Utilities
Code;

(3) is distributed by the issuer to a person under an
awards, rewards, loyalty, incentive, rebate, or promotional
program and is not issued or reloaded in exchange for money tendered

1 by the cardholder;

2 (4) is sold below face value or donated to:

3 (A) an employee of the seller or issuer;

4 (B) a nonprofit or charitable organization; or

5 (C) an educational institution for fund-raising
6 purposes; ~~or~~

7 (5) does not expire and for which the seller does not
8 charge a fee ~~[other than a fee]~~ described in Section 604.051;

9 (6) is issued or sold as a voucher:

10 (A) for admission to an event, attraction, or
11 establishment, including an amusement park, zoo, museum, water
12 park, and concert; or

13 (B) for permission to travel on a vehicle,
14 including a train, bus, and boat; or

15 (7) is a debit card on which information evidencing a
16 promise to pay money representing child support payments is stored
17 and for which a fee described by Section 604.051 is not charged.

18 SECTION 2. The heading to Subchapter B, Chapter 604,
19 Business & Commerce Code, is amended to read as follows:

20 SUBCHAPTER B. CERTAIN ~~[PERMISSIBLE]~~ FEES PROHIBITED

21 SECTION 3. Section 604.051, Business & Commerce Code, is
22 amended to read as follows:

23 Sec. 604.051. CERTAIN FEES AND CHARGES ASSOCIATED WITH
24 ~~[RELATED TO ISSUANCE AND HANDLING OF]~~ CARD PROHIBITED.

25 (a) The ~~[If disclosed as required by Subchapter C, the]~~ issuer of
26 a stored value card may not impose or ~~[and]~~ collect a fee associated
27 with a stored value card, including ~~[reasonable]~~:

1 (1) an [~~handling fee in connection with the issuance~~
2 ~~of or adding of value to the card,~~

3 [~~(2)~~] access fee for a card transaction conducted at
4 an unmanned teller machine, as defined by Section 59.301, Finance
5 Code; [~~and~~]

6 (2) a [~~(3)~~] reissue or replacement charge if an
7 expired or lost card is reissued or replaced; or

8 (3) a periodic fee or other charge that causes the
9 unredeemed balance of the card to decrease over time.

10 (b) This chapter does not prohibit a stored value card fee
11 charged by a seller at the time of initial sale or when adding value
12 to a stored value card if the fee is disclosed to the consumer at the
13 time of the transaction and the consumer has the opportunity to
14 decline the transaction after having been informed of the fee.

15 SECTION 4. Section 604.101, Business & Commerce Code, is
16 amended to read as follows:

17 Sec. 604.101. REQUIRED DISCLOSURE OF CERTAIN MATTERS
18 APPLICABLE TO CARD. An expiration date, [~~or~~] policy, [~~fee,~~] or
19 other material restriction or contract term applicable to a stored
20 value card must be clearly and conspicuously disclosed at the time
21 the card is sold or issued to a person to enable the person to make
22 an informed decision before purchasing the card.

23 SECTION 5. Section 604.102, Business & Commerce Code, is
24 amended to read as follows:

25 Sec. 604.102. REQUIRED PRINTING OF CERTAIN DISCLOSURES. In
26 addition to the disclosure required under Section 604.101, a
27 disclosure regarding the expiration of a stored value card [~~or a~~

1 ~~periodic fee that reduces the unredeemed value of a stored value~~
2 ~~card~~] must be legibly printed on the card.

3 SECTION 6. Section 604.103, Business & Commerce Code, is
4 amended to read as follows:

5 Sec. 604.103. VALIDITY OF CARD SOLD WITHOUT REQUIRED
6 DISCLOSURES. A stored value card sold without a [~~the~~] disclosure
7 required by this chapter [~~subchapter~~] of an expiration date or
8 policy, fee, or other material restriction or contract term
9 applicable to the card is valid until redeemed or replaced.

10 SECTION 7. Section 72.1016(a), Property Code, is amended to
11 read as follows:

12 (a) This section applies to a stored value card, as defined
13 by Section 604.001, Business & Commerce Code, other than a card:

14 (1) to which Chapter 604, Business & Commerce Code,
15 does not apply by operation of Sections 604.002(1)(A) and (C),
16 604.002(2)-(4), and 604.002(6)-(7) [~~and 604.002(2)-(5)~~] of that
17 code; or

18 (2) that is linked to and draws its value solely from a
19 deposit account subject to Chapter 73.

20 SECTION 8. The following provisions are repealed:

21 (1) Section 604.052, Business & Commerce Code; and

22 (2) Section 72.1016(d), Property Code.

23 SECTION 9. The changes in law made by this Act apply only to
24 a stored value card issued or activated on or after the effective
25 date of this Act. A stored value card issued or activated before
26 the effective date of this Act is governed by the law in effect when
27 the card was issued or activated, and the former law is continued in

1 effect for that purpose.

2 SECTION 10. This Act takes effect January 1, 2010.