

Vermont Amends Gift Certificate Laws, Embraces “Groupon” Model

Vermont has amended its gift certificate laws (Vt. Stat. § 2701, *et seq.*), adding key provisions relating to loyalty, award and promotional certificates, as well as embracing the model of gift certificates that contain both a paid and a promotional value (the so-called “Groupon” model, after the popular web-based group coupon company). [Act 136](#), [House Bill 730](#), also increased the minimum time period until expiration for non-exempt gift certificates from three to five years, and both added and removed exemptions from the statutory requirements relating to expiration dates, fees and disclosures. The amendment is effective as of the enactment date, May 18, 2012.

The amendment adds the definition for a loyalty, award, or promotional gift certificate as one that “is issued on a prepaid basis primarily for personal, family or household purposes to a consumer in connection with a loyalty, award, or promotional program and that is redeemable upon presentation to one or more merchants for goods or services or that is usable at automated teller machines.” Gift certificates that fall into that definition are exempt from Vermont’s statutory restrictions on expiration dates (now five years from date of issuance or last reloading of the card, and required to be provided to the purchaser on the face of the certificate, or on a receipt, website or by toll-free number for electronic gift cards) and fees (prohibiting dormancy, latency, issuance or redemption fees, as well as administrative fees or service charges), so long as the cards are not given in exchange for any money or other thing of value and provide the following disclosures, to the extent applicable:

- a statement on the front of the card that it is issued for promotional/award/loyalty purposes;

- the expiration date of both the paid (if any) and promotional value (if any) on the front of the card;
- the amount of any fees that may be imposed and the conditions under which they are imposed, provided on or with the card;
- if any fee is assessed, a toll-free number, and if one is maintained, a website address, that a consumer may use to obtain fee information must be on the card.

The amendment also provides for a distinction between paid value and promotional value. Paid value is defined as “the value of any money or other thing of value given in exchange for a gift certificate” and promotional value is defined as “value shown on a gift certificate in excess of the paid value[.]”

A certificate’s paid value continues to be subject to all the general expiration date, fee and disclosures requirements and restrictions. Promotional value, however, is exempt from these restrictions and also is not subject to Vermont’s statutory requirement that any unused value remaining on gift certificates after expiration must be returned to the holder upon request.

In addition to these new exemptions, the amendment removes the exemption previously covering gift certificates for food products and adds an exemption for gift certificates donated to a charitable organization and used for fund-raising activities, in cases in which no money or anything of value is given by the charity in exchange, provided that the expiration date is clearly and legibly printed on the certificate.

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