



Legislation Text

File #: Res 0730-2004, **Version:** *

Res. No. 730

Resolution calling upon the State Legislature to amend the General Business Law in relation to prohibiting businesses from selling gift certificates, or issuing store credits, containing expiration dates or from adding dormancy fees, latency fees, or any other administrative fees or service charges that have the effect of reducing the total amount of the gift certificate or store credit face value.

By Council Members Fidler, The Speaker (Council Member Miller), Weprin, Nelson, Recchia Jr., Oddo, Gonzalez, Dilan, Gennaro, Reyna, Baez, Koppell, James, Stewart, Gerson, Barron, Yassky, Gentile, Addabbo Jr., Brewer, Clarke, Comrie, Jennings, Liu, Martinez, McMahon, Palma, Vann, Quinn and Lopez

Whereas, Governor Pataki signed Senate Bill 7708 into law on September 21, 2004, intended to protect consumers in relation to fees associated with the purchase and use of gift cards; and

Whereas, The bill amends section 396-i of the General Business Law and directs that consumers receive clear notice of the terms and conditions of all gift certificates and gift cards issued; and

Whereas, Particularly during the holiday season, this is an important concern as consumers frequently purchase store gift cards to give as presents to friends and loved ones; and

Whereas, New York consumers spent an estimated \$1.3 billion on gift cards in 2003; and

Whereas, Many merchants charge hidden fees in connection with the sale and use of store gift cards, including up-front surcharges and latency fees that gradually diminish the card's value over time; and

Whereas, Numerous merchants also fix expiration dates to their gift cards, making them useless beyond a prescribed time period, regardless of the card's actual remaining value; and

Whereas, Due to the application of these fees and expiration dates, it is estimated that, nationally, 12 to 15% of the money spent on gift card purchases is never redeemed by consumers; and

Whereas, Despite the new disclosure requirements pursuant to Senate Bill 7708, the current state

legislation still permits retailers to assess unrestricted service fees and set expiration dates after the card has been inactive for thirteen months; and

Whereas, Establishments that sell or issue gift certificates or gift cards, or issue store credits, are essentially paid in advance for subsequent consumer purchases; and

Whereas, The Council finds that it is improper for these establishments to place any expiration dates or service fees upon these items, as this practice turns these certificates, cards and store credits into “found money” for the establishment at the expense of the consumer; and

Whereas, A spokesperson for State Attorney General Eliot Spitzer recently issued the following statement, “It’s the position of the Attorney General’s Office that the law should prohibit expiration dates and monthly service and dormancy fees, anything less than that is not real consumer protection;” and

Whereas, Although the recent amendments to the state law are certainly well intentioned and take a positive step towards protecting consumers from dubious business practices, they do not go far enough; and

Whereas, The State Legislature should therefore amend the current law to increase consumer protection, or permit localities to adopt additional, or more stringent requirements for the sale of store gift cards; now, therefore, be it

Resolved, That the Council of the city of New York calls on the State Legislature to amend the General Business Law to prohibit businesses from selling gift certificates, or issuing store credits, containing expiration dates or from adding dormancy fees, latency fees, or any other administrative fees or service charges that have the effect of reducing the total amount of the gift certificate or store credit face value. In the alternative, the Council calls upon the State Legislature to amend the General Business Law to permit local jurisdictions to enact their own legislation to achieve the same or similar result.

TSF
LS#1567
12/13/04

December 13, 2004

TO: Council Member Fidler

FROM: GOVERNMENTAL AFFAIRS DIVISION

RE: Resolution calling upon the State Legislature to amend the General Business Law in relation to prohibiting businesses from selling gift certificates, or issuing store credits, containing expiration dates or from adding dormancy fees, latency fees, or any other administrative fees or service charges that have the effect of reducing the total amount of the gift certificate or store credit face value.

The attached material was prepared by the Governmental Affairs Division. If this material is to be introduced, please indicate below that you have received and approved the draft and please then forward six copies to Gifford Miller, Speaker, City Hall. Please also forward two copies of the memorandum in support to the Speaker's Office.

If you want to amend or alter the draft, please contact Thomas S. Ferrugia (788-9188). In the event that you revise the attached and submit it in revised form, please send us a copy as soon as possible.

**Approved as to Form
Not Content**

THEODORE BAECHER
Deputy Director
Governmental Affairs Division

LS# 1567

THOMAS S. FERRUGIA
Legislative Attorney

Gifford Miller:

Please introduce this legislation. My approval is/is not (please circle where appropriate) needed for co-sponsorship.

Council Member's Signature