

ASSEMBLY, No. 3480

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 26, 2014

Sponsored by:

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

SYNOPSIS

Eliminates consumer data collection requirements for certain gift cards.

CURRENT VERSION OF TEXT

As introduced.



A3480 DIEGNAN

2

1 AN ACT eliminating consumer data collection requirements for
2 certain gift cards, amending section 5 of P.L.2010, c.25
3 (C.46:30B-42.1).

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 5 of P.L.2010, c.25 (C.46:30B-42.1) is amended to
9 read as follows:

10 5. a. A stored value card for which there has been no stored
11 value card activity for five years is presumed abandoned. This
12 subsection shall apply to any stored value card issued on or after
13 July 1, 2010.

14 b. The proceeds of a general purpose reloadable card presumed
15 abandoned shall be the value of the card, in money, on the date the
16 general purpose reloadable card is presumed abandoned. The
17 proceeds of all other stored value cards presumed abandoned shall
18 be 60% of the value of the card, in money, on the date the stored
19 value card is presumed abandoned.

20 c. **【Beginning the first day of the 49th month following the**
21 **date of enactment of P.L.2012, c.14, an issuer of a stored value card**
22 **shall obtain the name and address of the purchaser or owner of each**
23 **stored value card issued or sold and shall, at a minimum, maintain a**
24 **record of the zip code of the owner or purchaser.】** (Deleted by
25 amendment, P.L. , c.) (pending before the Legislature as this
26 bill)

27 d. Nothing in this section shall be construed to prevent an
28 issuer from honoring a stored value card, the unredeemed value of
29 which has been reported to the State Treasurer pursuant to
30 R.S.46:30B-1 et seq., and thereafter seeking reimbursement from
31 the State Treasurer pursuant to R.S.46:30B-62.

32 e. This section does not apply to:

33 (1) a stored value card that is distributed by the issuer, directly
34 or indirectly, to a person under a promotional, incentive, rewards, or
35 customer loyalty program or a charitable program for which no
36 direct monetary consideration is paid by the owner;

37 (2) a stored value card that is donated or sold below face value
38 to a nonprofit or charitable organization or an educational
39 organization;

40 (3) a stored value card that is redeemable for admission to
41 events or venues at a particular location or group of affiliated
42 locations, or for goods or services in conjunction with admission to
43 those events or venues, or both, at the event or venue or at specific
44 locations affiliated with and in geographic proximity to the event or
45 venue; and

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 (4) a stored value card issued by any issuer that in the past year
2 sold stored value cards with a face value of \$250,000 or less. For
3 purposes of this subsection, sales of stored value cards by
4 businesses that operate either (1) under the same trade name as or
5 under common ownership or control with another business or
6 businesses in the State, or (2) as franchised outlets of a parent
7 business, shall be considered sales by a single issuer.

8 f. The State Treasurer is authorized to grant an exemption from
9 such provisions concerning stored value cards, on such terms and
10 conditions as the State Treasurer may require, for a business or
11 class of businesses that demonstrate good cause to the satisfaction
12 of the State Treasurer. In exercising his discretion pursuant to this
13 section, the State Treasurer may consider relevant factors including,
14 but not limited to, the amount of stored value card transactions
15 processed, the technology in place, whether or not stored value
16 cards issued contain a microprocessor chip, magnetic strip, or other
17 means designed to trace and capture information about place and
18 date of purchase, and such other factors as the State Treasurer shall
19 deem relevant.

20 g. Notwithstanding the provisions of this act or any other law
21 to the contrary, only a stored value card which is exempt from the
22 provisions of this act pursuant to subsection e. or f. of this section
23 shall be deemed a gift card or gift certificate for purposes of
24 P.L.2002, c.14 (C.56:8-110 et seq.).

25 h. Beginning September 1, 2012 if a stored value card is
26 redeemed and a balance of less than \$5 remains on the card after
27 redemption, at the owner's request the merchant or other entity
28 redeeming the card shall refund the balance in cash to the owner.

29 A merchant or other entity required to comply with the
30 provisions of this subsection shall be liable to a penalty of \$500 for
31 each violation plus restitution of the amount of the cash value
32 remaining on the stored value card, provided however that the
33 amount of the penalty shall be trebled for an aggregate of 100 such
34 violations occurring during any 12 month period. Failure to provide
35 requested cash redemption for each stored value card shall be
36 considered a separate violation. Upon receiving evidence of any
37 violation of the provisions of this subsection, the Director of the
38 Division of Consumer Affairs, or the director's designee, is
39 empowered to hold hearings upon those violations and upon finding
40 the violation to have been committed, to assess a penalty against the
41 person alleged to have committed the violation in the amounts
42 provided in this subsection. The director shall thereafter return to
43 the owner of the card the amount of the cash value remaining on the
44 card recovered under this subsection, and this shall be the sole
45 remedy available to the owner for those violations.

46 This subsection does not impose on an issuer or merchant or
47 other entity required to comply with the provisions of this
48 subsection an obligation to advertise the availability of a refund

1 balance redemption. Notwithstanding the foregoing or any
2 provision in section 3 of P.L.1981, c.454 (C.56:12-16), an issuer,
3 seller or redeemer of stored value cards may elect to include a
4 disclosure or may, in the alternative, include a statement on the
5 stored value card or other marketing materials that the card "is not
6 redeemable for cash except as required by law" or similar
7 statement.

8 This subsection shall not apply to (1) a non-reloadable stored
9 value card with an initial value of \$5 or less; or (2) a stored value
10 card that is not purchased but is provided in lieu of a refund for
11 returned merchandise; or (3) a stored value card that can be
12 redeemed at multiple merchants that are not under common
13 ownership or control, including but not limited to network-branded
14 stored value cards.

15 i. The funds associated with a stored value card sold on or
16 after December 1, 2012 shall be valid until redemption and shall not
17 expire. However, a stored value card may contain an expiration date
18 to the extent permitted by federal law that applies only to the card
19 or other tangible medium through which the underlying funds can
20 be accessed, provided those underlying funds do not expire.

21 j. For stored value cards sold on or after December 1, 2012, in
22 addition to the requirements of section 37 of P.L.2002, c.35
23 (C.46:30B-43.1), no fees or charges shall be imposed on a stored
24 value card except that the issuer may charge (1) an activation,
25 issuance, purchase or similar fee related to the issuance and
26 purchase of a stored value card and for each occurrence of adding
27 value to an existing stored value card; and (2) a replacement card
28 fee with respect to lost, stolen or damaged stored value cards
29 provided that these fees are disclosed in writing prior to issuance or
30 referenced on the stored value card or the stored value card
31 packaging. The State Treasurer may adopt regulations regarding the
32 establishment of activation, issuance, purchase or similar fees, fees
33 for adding value to an existing stored value card, and replacement
34 card fees.

35 A general purpose reloadable card shall not be subject to the
36 provisions of this subsection.

37 k. As used in this section:

38 "Stored value card activity" means the purchase or issuance of
39 the stored value card, a transaction executed by the owner that
40 increased or decreased the value of the stored value card, or
41 communication by the owner of the stored value card with the
42 issuer of the stored value card concerning the value of the balance
43 remaining on the stored value card as evidenced by a
44 contemporaneous record prepared by or on behalf of the issuer.

45 "Issuer" means an issuer of a stored value card that is a person,
46 retailer, merchant, vendor, provider or business association with the
47 obligations of a holder to accept the stored value card as redeemable

1 for, solely or a combination of, merchandise, services, or cash, and
2 to report and deliver proceeds of the stored value card if abandoned.
3 “General purpose reloadable card” means a stored value card
4 issued by a bank or other similarly regulated financial institution or
5 by a licensed money transmitter that is (1) usable and honored upon
6 presentation at multiple merchants or service providers that are not
7 under common ownership or control for goods or services or at
8 automated teller machines, (2) issued in a requested prepaid amount
9 which amount may be, at the option of the issuer, increased in value
10 or reloaded if requested by the cardholder, and (3) not marketed or
11 labeled as a gift card; the term "reloadable card" includes a
12 temporary non-reloadable card issued solely in connection with a
13 reloadable card.

14 (cf:P.L.2012, c.14, s.1)

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16 2. This act shall take effect immediately.

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STATEMENT

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21 This bill eliminates consumer data collection requirements for
22 certain gift cards. The purpose of this bill is to relieve merchants of
23 the responsibility to collect personal consumer data on qualifying
24 stored value card purchases before the escheat related requirement
25 goes into effect in July of 2016.

26 Under current law, qualified stored value card proceeds escheat
27 to the State after five years of inactivity. As a counterpart to this
28 policy, merchants are required to collect the name and address of
29 the consumer and maintain a record thereto recording, at a
30 minimum, the consumer’s zip code. Technically, the collection of
31 personal consumer data requirement is not scheduled to take effect
32 until July of 2016.

33 This bill eliminates the requirement that merchants collect the
34 name and address of qualifying stored value card consumers and
35 related record retention requirements ahead of implementation.