

Bill as
Introduced

HB 473 - AS AMENDED BY THE HOUSE

8Mar2017... 0310h

2017 SESSION

17-0099
05/04

HOUSE BILL

473

AN ACT relative to the sale of gift certificates.

SPONSORS: Rep. Hunt, Ches. 11; Rep. Williams, Hills. 4; Rep. Butler, Carr. 7; Rep. Ladd, Graf. 4; Rep. Spanos, Belk. 3; Sen. Watters, Dist 4; Sen. Reagan, Dist 17; Sen. Birdsell, Dist 19; Sen. Carson, Dist 14

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill:

I. Increases the threshold above which merchants can sell gift cards with expiration dates from \$100 to \$250.

II. Revises the definition of gift certificate by removing the requirement that it be in writing.

III. Provides that gift certificates of \$250 or less shall not be considered abandoned property under RSA 471-C.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struck through~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 473 - AS AMENDED BY THE HOUSE

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seventeen

AN ACT relative to the sale of gift certificates.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Consumer Protection Act; Acts Unlawful; Gift Certificates. Amend RSA 358-A:2, XIII to
2 read as follows:

3 XIII. Selling gift certificates having a face value of [~~\$100~~] **\$250** or less to purchasers which
4 contain expiration dates. Gift certificates having a face value in excess of [~~\$100~~] **\$250** shall expire
5 when escheated to the state as abandoned property pursuant to RSA 471-C. Dormancy fees,
6 latency fees, or any other administrative fees or service charges that have the effect of reducing the
7 total amount for which the holder may redeem a gift certificate are prohibited. This paragraph
8 shall not apply to season passes.

9 2 Definition of Gift Certificate. Amend RSA 358-A:1, IV-a to read as follows:

10 IV-a. "Gift certificate" means a [~~written~~] promise given in exchange for payment to provide
11 the bearer, upon presentation, goods or services in a specified amount.

12 3 Custody and Escheat of Unclaimed and Abandoned Property; Gift Certificates and Store
13 Credits. Amend RSA 471-C:16 to read as follows:

14 471-C:16 Gift Certificates and Store Credits. Notwithstanding any law to the contrary, gift
15 certificates of [~~\$100~~] **\$250** or less, and store credits that were issued for store merchandise credit,
16 regardless of when issued, shall not be property presumed abandoned and shall not be subject to
17 RSA 471-C or any other past or present law. All gift certificates and store credits remitted to the
18 state prior to January 1, [~~1998~~] **2018**, and gift certificates and store credits that are properly
19 determined to be reportable in any compliance audits initiated prior to January 1, [~~1998~~] **2018** and
20 subsequently remitted, shall remain in the custody of the state unless and until returned to the
21 owner. This section shall not apply to season passes or coupons that are nonrefundable and
22 nonredeemable.

23 4 Effective Date. This act shall take effect January 1, 2018.

Committee Minutes

Senate Commerce Committee
Angela Leach 271-3077

HB 473, relative to the sale of gift certificates.

Hearing Date: May 2, 2017

Members of the Committee Present: Senators Innis, French, Sanborn, Soucy and Lasky

Members of the Committee Absent: None

Bill Analysis: This bill:

I. Increases the threshold above which merchants can sell gift cards with expiration dates from \$100 to \$250.

II. Revises the definition of gift certificate by removing the requirement that it be in writing.

III. Provides that gift certificates of \$250 or less shall not be considered abandoned property under RSA 471-C.

Sponsors:

Rep. Hunt
Rep. Ladd
Sen. Reagan

Rep. Williams
Rep. Spanos
Sen. Birdsell

Rep. Butler
Sen. Watters
Sen. Carson

Who supports the bill: Representative Hunt, Senator Birdsell, Curtis Barry- NH Retail Association, Darryl Perry- Liberty Lobby, LLC, Henry Veilleux- NH lodging and Restaurant Association, Ian Freeman- NH Liberty Party

Who opposes the bill: Representative Becky McBeath

Who is neutral on the bill:

Summary of testimony presented:

Senator Sanborn stated he may or may not have a conflict but will be participating.

Representative John Hunt (PRIME) – This bill died on the last day of the session last year because there were issues with the bill. Both of those issues have been solved. The primary purpose was that when the original gift certificate statute was passed, it was based on the fact if you gave someone \$10 as a layaway and actual cash, and if you didn't come back after 5 years, then that business was required to turn that over to state as abandoned property. We created a minimum amount and that was \$100. That was a good 20 years ago. \$250 made sense to bring the dollar amount up. The problem we had was that we had forgotten the other

statute, it is the abandoned property statute, and consumer protection statute, which is addressed in this bill. The other issue is the issue of definition of gift certificates. We needed to modernize that language. We removed the word "written" in terms of gift certificates, because they are not always "written" anymore.

Senator Sanborn- Can you look at line 15, in regards to "credits for store merchandise", what about the hospitality industry where it might not be merchandise?

Representative Hunt- It has to have actual value, as a restaurant would you make a donation to a chamber but you didn't receive any monetary value. You have to have monetary value in the transaction.

Senator Sanborn – A lot of us are also selling gift certificates in the restaurant business but mine is not store merchandise.

Representative Hunt- It is a credit. If you are a clothing store and someone comes in and pays cash for a pair of pants and then they bring the pants back, the return policy should give them their money back. But, if you take the pants back and issue a credit, even if there were some transactions in between, you should have on your books a credit for that pair of pants. You must honor that for the rest of your business.

Senator Sanborn- If someone walks in buys a gift certificate?

Representative Hunt- That's specifically exempted from the statute.

Senator Sanborn -So this statute is solely about buying something and then returning it?

Representative Hunt- Correct.

Senator Lasky- You mentioned layaway; a gift certificate is different from layaway. Which is it?

Representative Hunt- We don't care what it is called; whether it is layaway, gift certificate or a card that you load up with points.

Senator Lasky- You told Senator Sanborn it is not a gift certificate that is redeemable for whatever amount. You have to purchase something first?

Senator Sanborn- If I could clarify, line 14 to 22 is in a different section of law that is specifically abandoned property. Line 1 -14, deals with gift certificate that I would sell. Line 14-22 deals with property of credit.

Representative Hunt- As long as the merchant receives monetary value, and as long as they just give it away or donate it to charity then this statute doesn't affect them.

Darryl Perry- Liberty Lobby, LLC (Support)-This bill increases the face value of the gift certificate that can be sold with an expiration date. If you calculate for inflation, you are looking at around \$250 based on when the \$100 was put into statute. It strikes the word "written" to allow for gift card, rather than a physical gift certificate.

Henry Veilleux- NH Lodging and Restaurant Association- (Support) There are two parts to the bill; one part deals with prohibited acts under consumer protection, and the other part deals with abandoned property. The law currently states it is a prohibited act to sell a gift certificate with an expiration date if the gift certificate is less than \$100. Gift certificates that are greater than \$100 are considered abandoned property if they are not redeemed within 5 years. The merchant then has to remit that information over to the state to the abandoned property division. This bill increases the threshold at which something becomes abandoned property. Good for the merchant, but also good for the consumer. Was introduced last year, but there was a mistake at the very end with one of the dates so they ended up killing the bill and reintroducing it.

Future Action: Pending

Speakers

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Thursday, May 4, 2017

THE COMMITTEE ON Commerce

to which was referred **HB 473**

AN ACT relative to the sale of gift certificates.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Daniel Innis
For the Committee

This bill increases the minimum amount at which merchants can sell a gift certificate with an expiration date from \$100 to \$250. Any gift certificate of an amount less than \$250 will never expire and will remain the responsibility of the retailer. It also revises the definition of gift certificate by removing the requirement that it be in writing, thereby including modern forms of credit gifts, such as electronic gift cards and redeemable numerical codes for online purchases. Finally, the bill provides that gift certificates of less than \$250 are not considered abandoned property and therefore shall not be subject to RSA 471-C:16.

Angela Leach 271-3077

FOR THE CONSENT CALENDAR

COMMERCE

HB 473, relative to the sale of gift certificates.

Ought to Pass, Vote 5-0.

Senator Daniel Innis for the committee.

This bill increases the minimum amount at which merchants can sell a gift certificate with an expiration date from \$100 to \$250. Any gift certificate of an amount less than \$250 will never expire and will remain the responsibility of the retailer. It also revises the definition of gift certificate by removing the requirement that it be in writing, thereby including modern forms of credit gifts, such as electronic gift cards and redeemable numerical codes for online purchases. Finally, the bill provides that gift certificates of less than \$250 are not considered abandoned property and therefore shall not be subject to RSA 471-C:16.