

By: Representative Fleming

To: Judiciary B

HOUSE BILL NO. 146

1 AN ACT TO PROHIBIT THE SALES OF GIFT CERTIFICATES WITH
2 EXPIRATION DATES, SERVICE FEES OR DORMANCY FEES; TO ALLOW CASH
3 REDEMPTION OR REPLACEMENT OF GIFT CERTIFICATES; TO PROVIDE
4 EXCEPTIONS; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** (1) It is unlawful for any person or entity to
7 sell a gift certificate to a purchaser that contains any of the
8 following:

9 (a) An expiration date.

10 (b) A service fee, including, but not limited to, a
11 service fee for dormancy, except as provided in subsection (5).

12 (2) Any gift certificate sold after July 1, 2005, is
13 redeemable in cash for its cash value, or subject to replacement
14 with a new gift certificate at no cost to the purchaser or holder.

15 (3) A gift certificate sold without an expiration date is
16 valid until redeemed or replaced.

17 (4) This section does not apply to any of the following gift
18 certificates issued on or after July 1, 2005, provided the
19 expiration date appears in capital letters in at least 10-point
20 font on the front of the gift certificate:

21 (a) Gift certificates that are distributed by the
22 issuer to a consumer pursuant to an awards, loyalty or promotional
23 program without any money or other thing of value being given in
24 exchange for the gift certificate by the consumer.

25 (b) Gift certificates that are sold below face value at
26 a volume discount to employers or to nonprofit and charitable
27 organizations for fundraising purposes if the expiration date on

28 those gift certificates is not more than 30 days after the date of
29 sale.

30 (c) Gift certificates that are issued for a food
31 product.

32 (5) Paragraph (b) of subsection (1) does not apply to a
33 dormancy fee on a gift card that meets all of the following
34 criteria:

35 (a) The remaining value of the gift card is Five
36 Dollars (\$5.00) or less each time the fee is assessed.

37 (b) The fee does not exceed One Dollar (\$1.00) per
38 month.

39 (c) There has been no activity on the gift card for
40 twenty-four (24) consecutive months, including, but not limited
41 to, purchases, the adding of value or balance inquiries.

42 (d) The holder may reload or add value to the gift
43 card.

44 (e) A statement is printed on the gift card in at least
45 10-point font stating the amount of the fee, how often the fee
46 will occur, that the fee is triggered by inactivity of the gift
47 card, and at what point the fee will be charged. The statement
48 may appear on the front or back of the gift card, but shall appear
49 in a location where it is visible to any purchaser prior to the
50 purchase thereof.

51 (6) Nothing in paragraph (a) of subsection (1) prevents an
52 issuer of gift certificates from including on any gift certificate
53 a provision that entitles the purchaser to a full refund of the
54 amount that he or she paid for that gift certificate upon the
55 occurrence of the following circumstances:

56 (a) The gift certificate is purchased as a gift for
57 another person.

58 (b) The time in which the gift certificate may be
59 redeemed is disclosed on the gift certificate.

60 (c) The holder of the gift certificate does not redeem
61 the gift certificate within the time described in paragraph (b).

62 **SECTION 2.** This act shall take effect and be in force from
63 and after July 1, 2005.