

SECOND REGULAR SESSION

# HOUSE BILL NO. 2519

## 94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PORTWOOD.

Read 1st time March 31, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4949L.02I

### AN ACT

To repeal section 447.505, RSMo, and to enact in lieu thereof two new sections relating to gift certificates and credit memos.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 447.505, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 407.1183 and 447.505, to read as follows:

**407.1183. 1. As used in this section, the following terms mean:**

(1) "Credit memo", a certificate, card, stored value card, or similar instrument issued in exchange for returned merchandise when the certificate, card, or similar instrument is redeemable for merchandise, food, or services regardless of whether any cash may be paid to the owner of the certificate, card, or instrument as part of the redemption transaction;

(2) "Gift certificate", a certificate, gift card, stored value card, or similar instrument issued in exchange for monetary consideration when the certificate, card, or similar instrument is redeemable for merchandise, food, or services regardless of whether any cash may be paid to the owner of the certificate, card, or instrument as part of the redemption transaction.

2. (1) A gift certificate or credit memo sold or issued for consideration in this state shall not have an expiration date, expiration period, or any type of postsale charge or fee imposed on the gift certificate or credit memo, including, but not limited to, service charges, dormancy fees, account maintenance fees, or cash-out fees. However, a gift

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 certificate may have an expiration date of not less than three years if it is provided as a  
17 charitable contribution when no consideration is given to the issuer by the consumer, or  
18 not less than one year if it is provided as a benefit under an employee-incentive program,  
19 consumer-loyalty program, or promotional program when no consideration is given to the  
20 issuer by the consumer, and the expiration date is prominently disclosed in writing to the  
21 consumer at the time it is provided. A gift certificate may have an expiration date if it is  
22 provided as part of a larger package related to a convention, conference, vacation, or  
23 sporting or fine arts event having a limited duration so long as the majority of the value  
24 paid by the recipient is attributable to the convention, conference, vacation, or event.

25 (2) Subdivision (1) of this subsection shall not apply to a gift certificate or credit  
26 memo sold or issued by a financial institution or by a money transmitter if the gift  
27 certificate or credit memo is redeemable by multiple unaffiliated merchants.

447.505. 1. The following property held or owing by a banking or financial organization  
2 or by a business association is presumed abandoned; provided, however, that neither this section  
3 nor any other provision of sections 447.500 to 447.595 shall apply to an instrument issued as an  
4 offer to settle a claim when failure to present the instrument for payment may be deemed a  
5 refusal of the offer to settle:

6 (1) Any deposit held in this state with a banking organization, together with any interest  
7 or dividend thereon that would be due had the owner not abandoned the account, excluding any  
8 charges that may lawfully be withheld, unless the owner has, within seven years or five years as  
9 provided in section 447.536:

10 (a) Increased or decreased the amount of the deposit, or presented the passbook or other  
11 similar evidence of the deposit for the crediting of interest; or

12 (b) Corresponded in writing with, or accepted mail from, the banking organization  
13 concerning the deposit; and the term "accepted mail from the banking organization" shall mean  
14 the banking organization did send correspondence in writing to the owner by first class mail  
15 postage prepaid, marked "Address Correction Requested", and such correspondence was not  
16 returned by the post office; or

17 (c) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file  
18 with the banking organization;

19 (2) Any funds paid in this state toward the purchase of shares or other interest in a  
20 financial organization, or any deposit made therewith in this state, and any interest or dividends  
21 thereon that would be due had the owner not abandoned the account, excluding any charges that  
22 may lawfully be withheld, unless the owner has within seven years or five years as provided in  
23 section 447.536:

24 (a) Increased or decreased the amount of the funds or deposit, or presented an  
25 appropriate record for the crediting of interest or dividends; or

26 (b) Corresponded in writing with, or accepted mail from, the financial organization  
27 concerning the funds or deposit; and the term "accepted mail from the financial organization"  
28 shall mean the financial organization did send correspondence in writing to the owner by first  
29 class mail postage prepaid, marked "Address Correction Requested", and such correspondence  
30 was not returned by the post office; or

31 (c) Otherwise indicated an interest in the funds or deposit as evidenced by a  
32 memorandum on file with the financial organization;

33 (3) Any sum payable on checks certified in this state or on written instruments issued  
34 in this state on which a banking or financial organization or business association is directly  
35 liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money  
36 orders, and traveler's checks, that, with the exception of traveler's checks and money orders, has  
37 been outstanding for more than seven years or five years as provided in section 447.536 from the  
38 date it was payable, or from the date of its issuance if payable on demand, or, in the case of  
39 traveler's checks, that has been outstanding for more than fifteen years from the date of its  
40 issuance, unless the owner has within seven years or five years as provided in section 447.536,  
41 or within fifteen years in the case of traveler's checks, corresponded in writing with the banking  
42 or financial organization or business association concerning it, or otherwise indicated an interest  
43 as evidenced by a memorandum on file with the banking or financial organization or business  
44 association;

45 (a) No holder may deduct from the amount of any money order any charges imposed by  
46 reason of the failure to present those instruments for payment unless there is a valid and  
47 enforceable written contract between the issuer and the owner of the property pursuant to which  
48 the issuer may impose those charges and the issuer regularly imposes those charges and does not  
49 regularly reverse or otherwise cancel those charges with respect to the property. Disclosure of  
50 the amount of any such charges shall be deemed adequate if set forth on the money order;

51 (b) No sum payable on a traveler's check, money order, or similar written instrument  
52 (other than a third-party bank check) described in this subdivision may be subjected to the  
53 custody of this state as unclaimed property unless:

54 a. The records of the issuer show that the traveler's check, money order, or similar  
55 written instrument was purchased in this state;

56 b. The issuer has its principal place of business in this state and the records of the issuer  
57 do not show the state in which the traveler's check, money order, or similar written instrument  
58 was purchased; or

59 c. The issuer has its principal place of business in this state, the records of the issuer  
60 show the state in which the traveler's check, money order, or similar written instrument was  
61 purchased and the laws of the state of purchase do not provide for the escheat or custodial taking  
62 of the property or its escheat or unclaimed property law is not applicable to the property;

63 (4) Any funds or other personal property, tangible or intangible, removed from a safe  
64 deposit box or any other safekeeping repository or agency or collateral deposit box in this state  
65 on which the lease or rental period has expired due to nonpayment of rental charges or other  
66 reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been  
67 unclaimed by the owner for more than seven years or five years as provided in section 447.536  
68 from the date on which the lease or rental period expired;

69 (5) [Gift certificates, credit memos and] Credit balances that are redeemable in  
70 merchandise only shall be reportable at a rate equal to sixty percent of their respective face value.  
71 The state treasurer shall reimburse the owner the full face value.

72 **2. (1) An unredeemed gift certificate or credit memo, as defined in section**  
73 **407.1183, RSMo, shall not be required to be reported as unclaimed property, except that**  
74 **a gift certificate or credit memo described in subdivision (2) of subsection 2 of section**  
75 **407.1183, RSMo, shall be reported as unclaimed property. The consideration paid for such**  
76 **a gift certificate or credit memo is the property of the owner of the gift certificate or credit**  
77 **memo.**

78 **(2) The consideration paid for an unredeemed gift certificate or credit memo is the**  
79 **property of the issuer of the unredeemed gift certificate or credit memo.**

80 **(3) An unredeemed gift certificate or credit memo is subject only to any rights of**  
81 **a purchaser or owner thereof and is not subject to a claim made by any state acting on**  
82 **behalf of a purchaser or owner.**

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