

**ASSEMBLY, No. 3372**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED OCTOBER 7, 2010

**Sponsored by:**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**SYNOPSIS**

Requires merchandise credit be clearly identifiable and distinguishable from proof of purchase issued by retailer and applies certain limitations on gift cards to merchandise credit.

**CURRENT VERSION OF TEXT**

As introduced.



A3372 MORIARTY

2

1 AN ACT concerning issuance of merchandise credit, amending  
2 P.L.2002, c.14 and supplementing P.L.1960, c.39 (C.56:8-1 et  
3 seq.).

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

7  
8 1. (New section) It shall be an unlawful practice for any  
9 retailer to issue merchandise credit for returned items unless the  
10 merchandise credit is clearly identifiable and distinguishable from  
11 any proof of purchase issued by the retailer in the normal course of  
12 business. As used in this section, “merchandise credit” means any  
13 credit provided to a consumer, upon the return of a previously  
14 purchased item, of a specified amount which may be spent at the  
15 retail mercantile establishment in lieu of returning payment in the  
16 form in which it was originally made.

17  
18 2. Section 1 of P.L.2002, c.14 (C.56:8-110) is amended to read  
19 as follows:

20 1. a. A gift certificate or gift card sold after the effective date  
21 of **[this amendatory act]** P.L.2002, c.14 (C.56:8-110 et seq.), or a  
22 merchandise credit issued after the effective date of P.L. \_\_\_\_\_,  
23 c. (C. ) (pending before the Legislature as this bill) shall retain  
24 full unused value until presented in exchange for merchandise, or  
25 shall have any and all conditions and limitations, as permitted in  
26 paragraphs (1) through (3) of this subsection, disclosed to the  
27 purchaser of the gift certificate or gift card at the time of purchase,  
28 or the person to whom a merchandise credit is issued at the time of  
29 issuance, as provided in subsection b. of this section.

30 (1) In no case shall a gift certificate or gift card expire within  
31 the 24 months immediately following the date of sale, and in no  
32 case shall a merchandise credit expire within the 24 months  
33 immediately following the date of issue.

34 (2) No dormancy fee shall be charged against a gift certificate or  
35 a gift card within the 24 months immediately following the date of  
36 sale, nor shall one be charged within the 24 months immediately  
37 following the most recent activity or transaction in which the  
38 certificate or card was used. No dormancy fee shall be charged  
39 against a merchandise credit within the 24 months immediately  
40 following the date of issue, nor shall one be charged within the 24  
41 months immediately following the most recent activity or  
42 transaction in which the merchandise credit was used.

43 (3) A dormancy fee charged against a gift certificate **[or]** , gift  
44 card, or merchandise credit as permitted by this subsection shall not  
45 exceed \$2.00 per month.

**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       b. The terms of any expiration date or dormancy fee applicable  
2 to a gift certificate **[or]** , gift card, or merchandise credit, as  
3 permitted by subsection a. of this section, shall be disclosed to a  
4 consumer by:

5       (1) written notice of the expiration date or dormancy fee or both  
6 printed in at least 10 point font, on the gift certificate **[or]** , gift  
7 card, or merchandise credit, or the sales receipt for the certificate  
8 **[or]** , card, or merchandise credit, or the package for the certificate  
9 **[or]** , card , or merchandise credit; and

10       (2) written notice, in at least 10 point font, on the gift certificate  
11 **[or]** , gift card, or merchandise credit, or the sales receipt for the  
12 certificate **[or]** , card, or merchandise credit, or the package for the  
13 certificate **[or]** , card, or merchandise credit, of a telephone number  
14 which the consumer may call, for information concerning any  
15 expiration date or dormancy fee.

16       c. As used in this section:

17       "Dormancy fee" means a charge imposed against the unused  
18 value of a gift card **[or]** , gift certificate , or merchandise credit due  
19 to inactivity;

20       "Gift card" means a tangible device, whereon is embedded or  
21 encoded in an electronic or other format a value issued in exchange  
22 for payment, which promises to provide to the bearer merchandise  
23 of equal value to the remaining balance of the device. "Gift card"  
24 does not include a prepaid telecommunications or technology card,  
25 prepaid bank card or rewards card;

26       "Gift certificate" means a written promise given in exchange for  
27 payment to provide merchandise in a specified amount or of equal  
28 value to the bearer of the certificate. "Gift certificate" does not  
29 include a prepaid telecommunications or technology card, prepaid  
30 bank card or rewards card;

31       "Merchandise" means and includes any objects, wares, goods,  
32 commodities, services or anything offered, directly or indirectly, to  
33 the public for sale;

34       "Merchandise credit" means any credit provided to a consumer,  
35 upon the return of a previously purchased item, of a specified  
36 amount which may be spent at the retail mercantile establishment in  
37 lieu of returning payment in the form in which it was originally  
38 made;

39       "Prepaid bank card" means a general use, prepaid card or other  
40 electronic payment device that is issued by a bank or other financial  
41 institution, or a licensed money transmitter, in a pre-denominated  
42 amount usable at multiple, unaffiliated merchants or at automated  
43 teller machines, or both, but shall not include a card issued by a  
44 retail merchant;

45       "Prepaid telecommunications or technology card" includes, but is  
46 not limited to: a prepaid telephone calling card; prepaid technical

1 support card; or prepaid Internet disk distributed to or purchased by  
2 a consumer; and

3 "Rewards card" means a card or certificate distributed by the  
4 issuer to a consumer pursuant to an awards, loyalty, rewards or  
5 promotional program, without any money or other consideration or  
6 thing of value by the consumer in exchange for the card or  
7 certificate.

8 (cf: P.L.2005, c.254, s.1)

9  
10 3. This act shall take effect on the first day of the sixth month  
11 following enactment.

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STATEMENT

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16 This bill would prohibit stores from issuing merchandise credit  
17 for returned merchandise unless the credit is clearly identifiable and  
18 distinguishable from any proof of purchase issued by the vendor in  
19 the normal course of business. In addition, the bill would subject  
20 merchandise credit to dormancy fee and expiration date limitations  
21 to which gift cards and gift certifications are already subject.

22 Recently, certain vendors have issued merchandise credit for  
23 items returned under certain circumstances on the same paper as  
24 sales receipts. Merchandise credit issued in this form is easily  
25 confused as being a receipt and may be inadvertently discarded by  
26 consumers.

27 A retailer who provided merchandise credit not clearly  
28 identifiable and distinguishable from proof of purchase would be in  
29 violation of the provisions of this bill would constitute a violation  
30 of the Consumer Fraud Act. An unlawful practice under the  
31 Consumer Fraud Act is punishable by a monetary penalty of not  
32 more than \$10,000 for a first offense and not more than \$20,000 for  
33 any subsequent offense. In addition, a violation can result in cease  
34 and desist orders issued by the Attorney General, the assessment of  
35 punitive damages and the awarding of treble damages and costs to  
36 the injured party.