

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 3498

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 2021

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 3498.

As amended, this bill requires gift card issuers to provide certain protections to consumers.

Under the bill, every gift card issuer in this State is required to:

- 1) immediately freeze any remaining funds on a gift card upon receiving a purchaser's report of fraud;
- 2) provide a full refund to the purchaser after the conclusion of a fraud investigation, if the instance of fraud was reported by the purchaser within two weeks of purchase or issuance of the gift card;
- 3) require the gift card issuer to conclude its fraud investigation not more than two weeks after the date the fraud was reported;
- 4) operate a hotline or an Internet website where a purchaser may review the issuer's policies regarding gift card fraud and report instances of fraud;
- 5) at the time of purchase or issuance of a gift card, inform the purchaser of its policies regarding gift card fraud and the existence of a hotline or Internet website where the purchaser may report fraud; and
- 6) maintain and provide to the purchaser upon request information including the amount of funds remaining on the gift card at the time the purchaser reports an instance of fraud and a list of time stamped disbursements of gift card funds if any funds were used prior to the purchaser reporting an instance of fraud.

The provisions of the bill do not apply to any small business. The bill defines "small business" to mean a business entity in this State which is independently owned and operated and not dominant in its field and employs fewer than 100 full-time employees.

A violation of the amended bill is an unlawful practice under the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), and is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to the injured.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) remove the provision of the bill prohibiting the use or validation of a gift card worth more than \$100 for 48 hours following the purchase or issuance of the gift card;

(2) clarify that a gift card issuer is required to immediately freeze any remaining funds on a gift card upon receiving a report of fraud from the purchaser;

(3) provide that a gift card issuer is to issue a full refund to the purchaser after the conclusion of a fraud investigation, if fraud is reported by the purchaser within two weeks of the purchase or issuance of the gift card;

(4) require the gift card issuer to conclude its fraud investigation not more than two weeks after the date that the instance of fraud was reported;

(5) provide that a purchaser may review the issuer's policies regarding gift card fraud through its hotline or website;

(6) require that a purchaser be provided with information, including the amount of funds remaining on the gift card, at the time the purchaser reports an instance of fraud;

(7) remove the civil penalty for violation of the bill's provisions and provide that a violation of the bill is an unlawful practice under the consumer fraud act;

(8) change the definition of "small business" to mean a business entity in this State rather than a business entity that is operated primarily within the State; and

(9) make various technical changes.