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DENISE L. NAPPIER

NEWS

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Nappier Proposes Law to Stop Retailers from Taking Back Unused Value of Retail Gift Cards and Eliminate Expiration Dates on Gift Certificates

Says retailers currently "double-dip" at consumer's expense; "fine print" now on gift cards in consumer wallets could make them worthless

Retail gift cards and gift certificates would have no expiration date, and stores would be prohibited from charging consumers monthly inactivity fees if the cards aren't used, if a proposal by State Treasurer Denise L. Nappier becomes law.

Nappier said consumers are generally unaware that retail stores can now deduct as much as $5.00 a month from gift cards that are unused for a period of time, reducing the monetary value of the card. Under the current system, which permits in some cases the deductions to be made retroactively to the beginning of the inactivity, the value of these cards – purchased by consumers and often given as gifts -- can erode in a relatively short time.

In banning the current practice of retailers subtracting value from the cards, the bill would require retailers to turn over the unused value to the Treasurer's Office after 3 years of inactivity, which would retain the value in perpetuity for the consumer until the value is claimed.

"In my view, the unused portion of the card still belongs to the consumer, not the company. Retailers shouldn't be allowed to whittle away the value and take it back. Our role is to step in and protect consumers' rights, working to make certain their money stays theirs," Nappier said.

This procedure would be consistent with other unclaimed assets, such as old bank accounts and uncashed paychecks, that are turned over by businesses to the Treasury each year to be preserved for rightful owners. In its unclaimed assets program, Name It and Claim It (nameitandclaimit.com), the Treasury returned more than $10 million to consumers last year.

The *Wall Street Journal* recently reported that retailers retain an estimated $2 billion annually from the value of gift cards, which are often lost or not fully redeemed. On average, 5 to 10 percent of the value stored on gift cards never gets used by consumers.

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The *Journal* reported that sales of the cards are expected to total approximately $37 billion for 2002, up about 20 percent from the previous year.

"Gift cards should be a convenience for consumers, not a double-dipping profit center for retailers," Nappier said. "The retailer receives their money when the card or certificate is purchased. They should not keep the cash without providing any goods or services," Nappier said.

The National Retail Federation, an industry trade association, has said that gift cards and certificates are one of the top 10 most popular holiday gifts. It has been estimated that gift cards and certificates now account for 5 percent or more of total sales at such major retailers as J.C. Penney Co. and Wal-Mart Stores Inc.

"FINE PRINT" ALLOWS RETAILERS TO SUBTRACT VALUE FROM CONSUMERS' CARDS

Nappier said that while retailers are selling gift cards in record numbers, consumers are often unaware of a significant 'catch' attached to the purchase. The fine print on the back of many cards says the company will charge a monthly fee – sometimes as much as $5.00 — if the card is unused or if a balance remains after a year or two.

"If you received, as a gift, a $50 gift card from *Linen and Things*, for example, but you didn't need anything from that store right away, beware. If you wait 2 years to use the card, it will be worth <u>only $2</u>. That's because *Linens and Things* charges a retroactive service fee of $2 per month if the card isn't used for 24 months.

"If the *Stop and Shop* card you have falls to the bottom of your purse or the back of the kitchen drawer for 18 months, they'll start deducting $2 every month. Hopefully, you'll find the card while its' still worth something. And if it's a Home Depot card, after 24 months they will take away <u>$5 every month</u> from the value of the card."

Among other major retailers, *Barnes & Noble* charges $1.50 a month after 12 months of non-use, *Starbucks* charges $2 a month after 12 months, Chili's charges $2 a month after 12 months and *Blockbuster* charges $2 a month after 24 months, according to published reports. The practice is widespread – although not universal -- within the industry, as most retailers have moved from issuance of gift certificates to gift cards.

ELIMINATING EXPIRATIONS DATES

In addition to prohibiting inactivity fee charges for non-use of gift cards, the bill (Senate Bill 121) also would prohibit retailers from limiting the use of gift certificates with expiration dates.

"This will ensure that consumers can use their certificates without the risk that, after a period of time, the value of the certificate would be terminated," Nappier said. "The value of these certificates or gift cards belong to the purchaser, not the retailer."

If gift certificates are not used for an extended period (three years according to the bill) the value of the unused portion would also be reported and remitted to the State Treasurer's Office for safekeeping until the consumer comes forward.

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"The bottom line is that the consumer would never lose the value of the gift card or the gift certificate," Nappier said. "Consumers paid for it, consumers should keep the full face value or any unredeemed portion in its entirety."

Nappier's proposal would also clarify the state's unclaimed property laws to explicitly add store-value gift cards and electronic store-value cards (which did not exist at the time the state law was originally written) to the categories of unclaimed or abandoned assets that must be turned over to the Treasurer's Office to maintain until claimed by rightful owners.

"We take the return of assets and safeguard individual property very seriously, and we work hard at it. I'm proud to say that over the last four years, we have returned more money to more people and businesses than in any four-year period in the program's history, " Nappier said. The Treasurer noted that businesses as well as individuals file claims as rightful owners of abandoned assets, and those assets are returned to the businesses – including many retailers -- by the Treasurer's Office without service fees.

"What's good for the goose is good for the gander," Nappier said. "Businesses expect to receive their rightful assets back in their entirety. Consumers deserve nothing less."

Just over $38.3 million in unclaimed or abandoned assets was returned by the Treasurer's Office to rightful owners or heirs during the past four fiscal years, to more than 33,000 individuals and businesses. By comparison, $20.6 million was returned to just over 18,000 rightful owners during the previous four years.

Nappier noted that there has been more attention focused on retail practices related to gift cards, as their use has increased and some consumers are noticing the value of the cards diminished if they go unused for a time.

The law would also make certain that retailers could not effectively drain the value of the gift cards within what is know as a "dormancy period" (the time in which a card goes unused) before the unredeemed value can be remitted to the Treasurer to safeguard for consumers.

Other sections of the proposed law would reduce the dormancy periods for other unclaimed property, provide earlier notice to consumers about forgotten, lost, mislaid or abandoned assets, and require unredeemed portions of gift cards purchased in Connecticut to go to the Connecticut Treasury rather than the state of the retailers' incorporation. The proposal also makes additional clarifications to the unclaimed property statutes to better protect consumers and assist businesses required to report unclaimed assets and could generate as much as an additional $23 million during FY2004.

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