

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 3036**

Chapter 168, Laws of 2004

58th Legislature  
2004 Regular Session

GIFT CERTIFICATES

EFFECTIVE DATE: 6/10/04 - Except sections 13 and 14, which become effective 7/1/04; and sections 15 and 16, which become effective 1/1/05

Passed by the House March 17, 2004  
Yeas 94 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate March 5, 2004  
Yeas 49 Nays 0

BRAD OWEN

**President of the Senate**

Approved March 26, 2004.

GARY F. LOCKE

**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 3036** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

**Chief Clerk**

FILED

March 26, 2004 - 4:26 p.m.

**Secretary of State  
State of Washington**

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**ENGROSSED HOUSE BILL 3036**

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Passed Legislature - 2004 Regular Session

**State of Washington                      58th Legislature                      2004 Regular Session**

**By** Representatives Hunter, Cairnes, Roach and Nixon

Read first time 01/27/2004. Referred to Committee on Finance.

1            AN ACT Relating to gift certificates; amending RCW 63.29.010,  
2            63.29.020, 63.29.140, and 63.29.170; adding a new chapter to Title 19  
3            RCW; creating a new section; and providing effective dates.

4            BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** It is the intent of the legislature to  
6            relieve businesses from the obligation of reporting gift certificates  
7            as unclaimed property. In order to protect consumers, the legislature  
8            intends to prohibit acts and practices of retailers that deprive  
9            consumers of the full value of gift certificates, such as expiration  
10           dates, service fees, and dormancy and inactivity charges, on gift  
11           certificates. The legislature does not intend that this act be  
12           construed to apply to cards or other payment instruments issued for  
13           payment of wages or other intangible property. To that end, the  
14           legislature intends that this act should be liberally construed to  
15           benefit consumers and that any ambiguities should be resolved by  
16           applying the uniform unclaimed property act to the intangible property  
17           in question.

1        NEW SECTION.    **Sec. 2.** The definitions in this section apply  
2 throughout this chapter unless the context clearly requires otherwise.

3        (1) "Artistic and cultural organization" has the same meaning as in  
4 RCW 82.04.4328.

5        (2) "Charitable organization" means an organization exempt from tax  
6 under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C.  
7 Sec. 501(c)(3)).

8        (3) "Fund-raising activity" has the same meaning as in RCW  
9 82.04.3651.

10       (4) "Gift card" means a record as described in subsection (5) of  
11 this section in the form of a card, or a stored value card or other  
12 physical medium, containing stored value primarily intended to be  
13 exchanged for consumer goods and services.

14       (5) "Gift certificate" means an instrument evidencing a promise by  
15 the seller or issuer of the record that consumer goods or services will  
16 be provided to the bearer of the record to the value or credit shown in  
17 the record and includes gift cards.

18       (6) "Bearer" means a person with a right to receive consumer goods  
19 and services under the terms of a gift certificate, without regard to  
20 any fee, expiration date, or dormancy or inactivity charge.

21       (7) "Issue" means to sell or otherwise provide a gift certificate  
22 to any person, and includes reloading or adding value to an existing  
23 gift certificate.

24       (8) "Stored value" has the same meaning as in RCW 19.230.010.

25       NEW SECTION.    **Sec. 3.** (1) Except as provided in sections 4 through  
26 8 of this act, it is unlawful for any person or entity to issue, or to  
27 enforce against a bearer, a gift certificate that contains:

- 28       (a) An expiration date;  
29       (b) Any fee, including a service fee; or  
30       (c) A dormancy or inactivity charge.

31       (2) If a gift certificate is issued with the sale of tangible  
32 personal property or services, the gift certificate is subject to  
33 subsection (1) of this section.

34       (3) If a purchase is made with a gift certificate for an amount  
35 that is less than the value of the gift certificate, the issuer must  
36 make the remaining value available to the bearer in cash or as a gift  
37 certificate at the option of the issuer. If after the purchase the

1 remaining value of the gift certificate is less than five dollars, the  
2 gift certificate must be redeemable in cash for its remaining value on  
3 demand of the bearer. A gift certificate is valid until redeemed or  
4 replaced.

5 (4) This section does not require, unless otherwise required by  
6 law, the issuer of a gift certificate to replace a lost or stolen gift  
7 certificate.

8 NEW SECTION. **Sec. 4.** (1) It is lawful to issue, and to enforce  
9 against the bearer, a gift certificate containing an expiration date  
10 if:

11 (a) The gift certificate is issued pursuant to an awards or loyalty  
12 program or in other instances where no money or other thing of value is  
13 given in exchange for the gift certificate.

14 (b) The gift certificate is donated to a charitable organization  
15 without any money or other thing of value being given in exchange for  
16 the gift certificate if the gift certificate is used by a charitable  
17 organization solely to provide charitable services.

18 (2) The expiration date must be disclosed clearly and legibly on  
19 any gift certificate described in subsection (1) of this section.

20 NEW SECTION. **Sec. 5.** It is lawful to issue, and to enforce  
21 against the bearer, a gift card containing a dormancy or inactivity  
22 charge if:

23 (1) A statement is printed on the gift card in at least six-point  
24 font stating the amount of the charge, how often the charge will occur,  
25 and that the charge is triggered by inactivity of the gift card. The  
26 statement may appear on the front or back of the gift card, but shall  
27 appear in a location where it is visible to any purchaser before the  
28 purchase of the gift card;

29 (2) The remaining value of the gift card is five dollars or less  
30 each time the charge is assessed;

31 (3) The charge does not exceed one dollar per month;

32 (4) The charge can only be assessed when there has been no activity  
33 on the gift card for twenty-four consecutive months, including but not  
34 limited to, purchases, the adding of value, or balance inquiries;

35 (5) The bearer may reload or add value to the gift card; and

1 (6) After a dormancy or inactivity charge is assessed, the  
2 remaining value of the gift certificate is redeemable in cash on  
3 demand.

4 NEW SECTION. **Sec. 6.** It is lawful to issue, and to enforce  
5 against the bearer, a gift certificate containing an expiration date  
6 if:

7 (1) The gift certificate is donated to a charitable organization  
8 and is used for fund-raising activities of a charitable organization,  
9 without any money or other thing of value being given in exchange for  
10 the gift certificate by the charitable organization;

11 (2) The expiration date is clearly and legibly printed on the front  
12 or face of the gift certificate, or printed on the back of the  
13 certificate in at least ten-point font; and

14 (3) The expiration date is at least one year from the date the gift  
15 certificate is issued by the charitable organization.

16 NEW SECTION. **Sec. 7.** It is lawful to issue, and to enforce  
17 against the bearer, a gift certificate containing an expiration date  
18 if:

19 (1) The gift certificate is redeemable solely for goods or services  
20 provided in the state of Washington by artistic and cultural  
21 organizations;

22 (2) The expiration date is clearly and legibly printed on the front  
23 or face of the gift certificate, or printed on the back of the  
24 certificate in at least ten-point font;

25 (3) The expiration date is at least three years from the date the  
26 gift certificate is issued by the artistic and cultural organizations;  
27 and

28 (4) The unused value of the gift certificate at the time of  
29 expiration accrues solely to the benefit of artistic and cultural  
30 organizations.

31 NEW SECTION. **Sec. 8.** A requirement under sections 4 through 7 of  
32 this act that a statement or expiration date be printed on a gift  
33 certificate is satisfied if the statement appears as otherwise required  
34 on a sticker permanently affixed to the gift certificate.

1        NEW SECTION.    **Sec. 9.** An issuer is not required to honor a gift  
2 certificate presumed abandoned under RCW 63.29.110, reported, and  
3 delivered to the department of revenue in the dissolution of a business  
4 association.

5        NEW SECTION.    **Sec. 10.** (1) A gift certificate constitutes value  
6 held in trust by the issuer of the gift certificate on behalf of the  
7 beneficiary of the gift certificate. The value represented by the gift  
8 certificate belongs to the beneficiary, or to the legal representative  
9 of the beneficiary to the extent provided by law, and not to the  
10 issuer.

11        (2) An issuer of a gift certificate who is in bankruptcy shall  
12 continue to honor a gift certificate issued before the date of the  
13 bankruptcy filing on the grounds that the value of the gift certificate  
14 constitutes trust property of the beneficiary.

15        (3) The terms of a gift certificate may not make its redemption or  
16 other use invalid in the event of a bankruptcy.

17        (4) This section does not require, unless otherwise required by  
18 law, the issuer of a gift certificate to:

19            (a) Redeem a gift certificate for cash;

20            (b) Replace a lost or stolen gift certificate; or

21            (c) Maintain a separate account for the funds used to purchase the  
22 gift certificate.

23        (5) This section does not create an interest in favor of the  
24 beneficiary of the gift certificate in any specific property of the  
25 issuer.

26        (6) This section does not create a fiduciary or quasi-fiduciary  
27 relationship between the beneficiary of the gift certificates and the  
28 issuer unless otherwise provided by law.

29        (7) The issuer of a gift certificate has no obligation to pay  
30 interest on the value of a gift certificate held in trust under this  
31 section, unless otherwise provided by law.

32        NEW SECTION.    **Sec. 11.** This chapter does not apply to gift  
33 certificates issued by financial institutions as defined in RCW  
34 30.22.041 or their operating subsidiaries that are usable with multiple  
35 unaffiliated sellers of goods or services.

1        NEW SECTION.    **Sec. 12.** An agreement made in violation of the  
2 provisions of this chapter is contrary to public policy and is void and  
3 unenforceable against the bearer.

4        **Sec. 13.** RCW 63.29.010 and 1983 c 179 s 1 are each amended to read  
5 as follows:

6        As used in this chapter, unless the context otherwise requires:  
7        (1) "Department" means the department of revenue established under  
8 RCW 82.01.050.

9        (2) "Apparent owner" means the person whose name appears on the  
10 records of the holder as the person entitled to property held, issued,  
11 or owing by the holder.

12        (3) "Attorney general" means the chief legal officer of this state  
13 referred to in chapter 43.10 RCW.

14        (4) "Banking organization" means a bank, trust company, savings  
15 bank, land bank, safe deposit company, private banker, or any  
16 organization defined by other law as a bank or banking organization.

17        (5) "Business association" means a nonpublic corporation, joint  
18 stock company, investment company, business trust, partnership, or  
19 association for business purposes of two or more individuals, whether  
20 or not for profit, including a banking organization, financial  
21 organization, insurance company, or utility.

22        (6) "Domicile" means the state of incorporation of a corporation  
23 and the state of the principal place of business of an unincorporated  
24 person.

25        (7) "Financial organization" means a savings and loan association,  
26 cooperative bank, building and loan association, or credit union.

27        (8) "Gift certificate" has the same meaning as in section 2 of this  
28 act.

29        (9) "Holder" means a person, wherever organized or domiciled, who  
30 is:

31        (a) In possession of property belonging to another,

32        (b) A trustee, or

33        (c) Indebted to another on an obligation.

34        ~~((+9))~~ (10) "Insurance company" means an association, corporation,  
35 fraternal or mutual benefit organization, whether or not for profit,  
36 which is engaged in providing insurance coverage, including accident,  
37 burial, casualty, credit life, contract performance, dental, fidelity,

1 fire, health, hospitalization, illness, life (including endowments and  
2 annuities), malpractice, marine, mortgage, surety, and wage protection  
3 insurance.

4 ~~((+10+))~~ (11) "Intangible property" does not include contract  
5 claims which are unliquidated but does include:

6 (a) Moneys, checks, drafts, deposits, interest, dividends, and  
7 income;

8 (b) Credit balances, customer overpayments, gift certificates,  
9 security deposits, refunds, credit memos, unpaid wages, unused airline  
10 tickets, and unidentified remittances, but does not include discounts  
11 which represent credit balances for which no consideration was given;

12 (c) Stocks, and other intangible ownership interests in business  
13 associations;

14 (d) Moneys deposited to redeem stocks, bonds, coupons, and other  
15 securities, or to make distributions;

16 (e) Liquidated amounts due and payable under the terms of insurance  
17 policies; and

18 (f) Amounts distributable from a trust or custodial fund  
19 established under a plan to provide health, welfare, pension, vacation,  
20 severance, retirement, death, stock purchase, profit sharing, employee  
21 savings, supplemental unemployment insurance, or similar benefits.

22 ~~((+11+))~~ (12) "Last known address" means a description of the  
23 location of the apparent owner sufficient for the purpose of the  
24 delivery of mail.

25 ~~((+12+))~~ (13) "Owner" means a depositor in the case of a deposit,  
26 a beneficiary in case of a trust other than a deposit in trust, a  
27 creditor, claimant, or payee in the case of other intangible property,  
28 or a person having a legal or equitable interest in property subject to  
29 this chapter or his legal representative.

30 ~~((+13+))~~ (14) "Person" means an individual, business association,  
31 state or other government, governmental subdivision or agency, public  
32 corporation, public authority, estate, trust, two or more persons  
33 having a joint or common interest, or any other legal or commercial  
34 entity.

35 ~~((+14+))~~ (15) "State" means any state, district, commonwealth,  
36 territory, insular possession, or any other area subject to the  
37 legislative authority of the United States.

1       (~~(15)~~) (16) "Third party bank check" means any instrument drawn  
2 against a customer's account with a banking organization or financial  
3 organization on which the banking organization or financial  
4 organization is only secondarily liable.

5       (~~(16)~~) (17) "Utility" means a person who owns or operates for  
6 public use any plant, equipment, property, franchise, or license for  
7 the transmission of communications or the production, storage,  
8 transmission, sale, delivery, or furnishing of electricity, water,  
9 steam, or gas.

10       **Sec. 14.** RCW 63.29.020 and 2003 1st sp.s. c 13 s 1 are each  
11 amended to read as follows:

12       (1) Except as otherwise provided by this chapter, all intangible  
13 property, including any income or increment derived therefrom, less any  
14 lawful charges, that is held, issued, or owing in the ordinary course  
15 of the holder's business and has remained unclaimed by the owner for  
16 more than three years after it became payable or distributable is  
17 presumed abandoned.

18       (2) Property, with the exception of unredeemed Washington state  
19 lottery tickets and unrepresented winning parimutuel tickets, is payable  
20 and distributable for the purpose of this chapter notwithstanding the  
21 owner's failure to make demand or to present any instrument or document  
22 required to receive payment.

23       (3) This chapter does not apply to claims drafts issued by  
24 insurance companies representing offers to settle claims unliquidated  
25 in amount or settled by subsequent drafts or other means.

26       (4) This chapter does not apply to property covered by chapter  
27 63.26 RCW.

28       (5) This chapter does not apply to used clothing, umbrellas, bags,  
29 luggage, or other used personal effects if such property is disposed of  
30 by the holder as follows:

31       (a) In the case of personal effects of negligible value, the  
32 property is destroyed; or

33       (b) The property is donated to a bona fide charity.

34       (6) This chapter does not apply to a gift certificate subject to  
35 the prohibition against expiration dates under section 3 of this act or  
36 to a gift certificate subject to sections 4 through 7 of this act.

1 However, this chapter applies to gift certificates presumed abandoned  
2 under RCW 63.29.110.

3 **Sec. 15.** RCW 63.29.140 and 2003 1st sp.s. c 13 s 7 are each  
4 amended to read as follows:

5 (1) A gift certificate or a credit memo issued in the ordinary  
6 course of an issuer's business which remains unclaimed by the owner for  
7 more than three years after becoming payable or distributable is  
8 presumed abandoned.

9 (2) In the case of a gift certificate, the amount presumed  
10 abandoned is the price paid by the purchaser for the gift certificate.  
11 In the case of a credit memo, the amount presumed abandoned is the  
12 amount credited to the recipient of the memo.

13 (3) A gift certificate that is presumed abandoned under this  
14 section may, but need not be, included in the report as provided under  
15 RCW 63.29.170(4). If a gift certificate that is presumed abandoned  
16 under this section is not timely reported as provided under RCW  
17 63.29.170(4), sections 1 through 12 of this act apply to the gift  
18 certificate.

19 **Sec. 16.** RCW 63.29.170 and 2003 c 237 s 1 are each amended to read  
20 as follows:

21 (1) A person holding property presumed abandoned and subject to  
22 custody as unclaimed property under this chapter shall report to the  
23 department concerning the property as provided in this section.

24 (2) The report must be verified and must include:

25 (a) Except with respect to travelers checks and money orders, the  
26 name, if known, and last known address, if any, of each person  
27 appearing from the records of the holder to be the owner of property  
28 with a value of more than fifty dollars presumed abandoned under this  
29 chapter;

30 (b) In the case of unclaimed funds of more than fifty dollars held  
31 or owing under any life or endowment insurance policy or annuity  
32 contract, the full name and last known address of the insured or  
33 annuitant and of the beneficiary according to the records of the  
34 insurance company holding or owing the funds;

35 (c) In the case of the contents of a safe deposit box or other  
36 safekeeping repository or in the case of other tangible property, a

1 description of the property and the place where it is held and where it  
2 may be inspected by the department, and any amounts owing to the  
3 holder;

4 (d) The nature and identifying number, if any, or description of  
5 the property and the amount appearing from the records to be due, but  
6 items with a value of fifty dollars or less each may be reported in the  
7 aggregate;

8 (e) The date the property became payable, demandable, or  
9 returnable, and the date of the last transaction with the apparent  
10 owner with respect to the property; and

11 (f) Other information the department prescribes by rule as  
12 necessary for the administration of this chapter.

13 (3) If the person holding property presumed abandoned and subject  
14 to custody as unclaimed property is a successor to other persons who  
15 previously held the property for the apparent owner or the holder has  
16 changed his or her name while holding the property, the holder shall  
17 file with the report all known names and addresses of each previous  
18 holder of the property.

19 (4) The report must be filed before November 1st of each year and  
20 shall include, except as provided in RCW 63.29.140(3), all property  
21 presumed abandoned and subject to custody as unclaimed property under  
22 this chapter that is in the holder's possession as of the preceding  
23 June 30th. On written request by any person required to file a report,  
24 the department may postpone the reporting date.

25 (5) After May 1st, but before August 1st, of each year in which a  
26 report is required by this section, the holder in possession of  
27 property presumed abandoned and subject to custody as unclaimed  
28 property under this chapter shall send written notice to the apparent  
29 owner at the last known address informing him or her that the holder is  
30 in possession of property subject to this chapter if:

31 (a) The holder has in its records an address for the apparent owner  
32 which the holder's records do not disclose to be inaccurate;

33 (b) The claim of the apparent owner is not barred by the statute of  
34 limitations; and

35 (c) The property has a value of more than seventy-five dollars.

36 NEW SECTION. **Sec. 17.** Sections 1 through 12 of this act  
37 constitute a new chapter in Title 19 RCW.

1        NEW SECTION.    **Sec. 18.**    Sections 1 through 12 of this act apply to:  
2        (1) Gift certificates issued on or after July 1, 2004; and  
3        (2) Those gift certificates presumed abandoned on or after July 1,  
4        2004, and not reported as provided in RCW 63.29.170(4).

5        NEW SECTION.    **Sec. 19.**    Sections 13 and 14 of this act take effect  
6        July 1, 2004.

7        NEW SECTION.    **Sec. 20.**    Sections 15 and 16 of this act take effect  
8        January 1, 2005.

Passed by the House March 17, 2004.

Passed by the Senate March 5, 2004.

Approved by the Governor March 26, 2004.

Filed in Office of Secretary of State March 26, 2004.