
SENATE BILL 5654

State of Washington

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By Senators Mullet, Wilson, L., and O'Ban

Read first time 01/25/19. Referred to Committee on Financial Institutions, Economic Development & Trade.

1 AN ACT Relating to rewards cards; amending RCW 19.240.005,
2 19.240.010, 19.240.080, 19.240.090, 19.240.100, 63.29.020, and
3 63.29.140; reenacting and amending RCW 63.29.010; and adding a new
4 section to chapter 19.240 RCW.

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

6 **Sec. 1.** RCW 19.240.005 and 2004 c 168 s 1 are each amended to
7 read as follows:

8 It is the intent of the legislature to relieve businesses from
9 the obligation of reporting gift certificates and rewards cards as
10 unclaimed property. In order to protect consumers, the legislature
11 intends to prohibit acts and practices of retailers that deprive
12 consumers of the full value of gift certificates, such as expiration
13 dates, service fees, and dormancy and inactivity charges, on gift
14 certificates. The legislature does not intend that chapter 168, Laws
15 of 2004 be construed to apply to cards or other payment instruments
16 issued for payment of wages or other intangible property or rewards
17 cards. To that end, the legislature intends that chapter 168, Laws of
18 2004 should be liberally construed to benefit consumers and that any
19 ambiguities should be resolved by applying the uniform unclaimed
20 property act to the intangible property in question.

1 **Sec. 2.** RCW 19.240.010 and 2011 c 213 s 1 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

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

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

10 (3) "Fund-raising activity" has the same meaning as in RCW
11 82.04.3651.

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

16 (b) "Gift card" does not include prepaid telephone calling cards
17 or prepaid commercial mobile radio services as defined in 47 C.F.R.
18 20.3, or rewards cards.

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

23 (b) "Gift certificate" does not include prepaid telephone calling
24 cards or prepaid commercial mobile radio services as defined in 47
25 C.F.R. 20.3, or rewards cards.

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

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

32 (8) "Stored value" has the same meaning as the term "closed loop
33 (~~stored value device~~) prepaid access" defined in RCW 19.230.010.

34 (9) "Cardholder" means the holder of a rewards card, regardless
35 of whether the rewards card is represented by a card or an electronic
36 record.

37 (10) (a) "Rewards card" means any loyalty, incentive, or
38 promotional program managed by a financial organization or a business
39 association, whether represented by a card or electronic record, and
40 established for the purpose of providing cardholder awards, rewards,

1 rebates, or other amounts to compensate the cardholder for the
2 cardholder's relationship with the entity sponsoring the rewards
3 card, provided that no direct money was paid by the cardholder for
4 the rewards card.

5 (b) (i) A rewards card includes:

6 (A) Cards or electronic records consisting of points, cash, or
7 other tokens of value given to a cardholder as a reward or incentive
8 for engaging in a transaction or a series of transactions; or

9 (B) The portion of a rewards card funded by the issuer as a
10 reward or incentive when the rewards card is partially loaded by the
11 cardholder; or

12 (ii) A rewards card is not a gift card or gift certificate.

13 **Sec. 3.** RCW 19.240.080 and 2004 c 168 s 9 are each amended to
14 read as follows:

15 An issuer is not required to honor a gift certificate or a
16 rewards card presumed abandoned under RCW 63.29.110, reported, and
17 delivered to the department of revenue in the dissolution of a
18 business association.

19 **Sec. 4.** RCW 19.240.090 and 2004 c 168 s 10 are each amended to
20 read as follows:

21 (1) A gift certificate constitutes value held in trust by the
22 issuer of the gift certificate on behalf of the beneficiary of the
23 gift certificate. The value represented by the gift certificate
24 belongs to the beneficiary, or to the legal representative of the
25 beneficiary to the extent provided by law, and not to the issuer.

26 (2) An issuer of a gift certificate who is in bankruptcy shall
27 continue to honor a gift certificate issued before the date of the
28 bankruptcy filing on the grounds that the value of the gift
29 certificate constitutes trust property of the beneficiary.

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

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

34 (a) Redeem a gift certificate for cash;

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

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

1 (5) This section does not create an interest in favor of the
2 beneficiary of the gift certificate in any specific property of the
3 issuer.

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

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

10 (8) For the purpose of this section, only a rewards card is
11 subject to the same provisions as a gift certificate.

12 **Sec. 5.** RCW 19.240.100 and 2004 c 168 s 11 are each amended to
13 read as follows:

14 (1) This chapter does not apply to gift certificates issued by
15 financial institutions as defined in RCW ((30.22.041)) 30A.22.041 or
16 their operating subsidiaries that are usable with multiple
17 unaffiliated sellers of goods or services.

18 (2) This chapter applies to rewards cards, regardless of issuer,
19 but only to the extent specifically stated in this chapter.

20 **Sec. 6.** RCW 63.29.010 and 2012 c 117 s 177 are each reenacted
21 and amended to read as follows:

22 As used in this chapter, unless the context otherwise requires:

23 (1) "Apparent owner" means the person whose name appears on the
24 records of the holder as the person entitled to property held,
25 issued, or owing by the holder.

26 (2) "Attorney general" means the chief legal officer of this
27 state referred to in chapter 43.10 RCW.

28 (3) "Banking organization" means a bank, trust company, savings
29 bank, land bank, safe deposit company, private banker, or any
30 organization defined by other law as a bank or banking organization.

31 (4) "Business association" means a nonpublic corporation, joint
32 stock company, investment company, business trust, partnership, or
33 association for business purposes of two or more individuals, whether
34 or not for profit, including a banking organization, financial
35 organization, insurance company, or utility.

36 (5) "Department" means the department of revenue established
37 under RCW 82.01.050.

1 (6) "Domicile" means the state of incorporation of a corporation
2 and the state of the principal place of business of an unincorporated
3 person.

4 (7) "Fare card" means any pass or instrument, and value contained
5 therein, purchased to utilize public transportation facilities or
6 services. "Fare card" does not include "gift card" or "gift
7 certificate" as those terms are defined in RCW 19.240.010.

8 (8) "Financial organization" means a savings and loan
9 association, cooperative bank, building and loan association, or
10 credit union.

11 (9) "Gift certificate" has the same meaning as in RCW 19.240.010.

12 (10) "Holder" means a person, wherever organized or domiciled,
13 who is:

14 (a) In possession of property belonging to another;

15 (b) A trustee; or

16 (c) Indebted to another on an obligation.

17 (11) "Insurance company" means an association, corporation,
18 fraternal or mutual benefit organization, whether or not for profit,
19 which is engaged in providing insurance coverage, including accident,
20 burial, casualty, credit life, contract performance, dental,
21 fidelity, fire, health, hospitalization, illness, life (including
22 endowments and annuities), malpractice, marine, mortgage, surety, and
23 wage protection insurance.

24 (12) "Intangible property" does not include contract claims which
25 are unliquidated but does include:

26 (a) Moneys, checks, drafts, deposits, interest, dividends, and
27 income;

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

33 (c) Stocks, and other intangible ownership interests in business
34 associations;

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

37 (e) Liquidated amounts due and payable under the terms of
38 insurance policies; and

39 (f) Amounts distributable from a trust or custodial fund
40 established under a plan to provide health, welfare, pension,

1 vacation, severance, retirement, death, stock purchase, profit
2 sharing, employee savings, supplemental unemployment insurance, or
3 similar benefits.

4 (13) "Last known address" means a description of the location of
5 the apparent owner sufficient for the purpose of the delivery of
6 mail.

7 (14) "Owner" means a depositor in the case of a deposit, a
8 beneficiary in case of a trust other than a deposit in trust, a
9 creditor, claimant, or payee in the case of other intangible
10 property, or a person having a legal or equitable interest in
11 property subject to this chapter or his or her legal representative.

12 (15) "Person" means an individual, business association, state or
13 other government, governmental subdivision or agency, public
14 corporation, public authority, estate, trust, two or more persons
15 having a joint or common interest, or any other legal or commercial
16 entity.

17 (16) "State" means any state, district, commonwealth, territory,
18 insular possession, or any other area subject to the legislative
19 authority of the United States.

20 (17) "Third party bank check" means any instrument drawn against
21 a customer's account with a banking organization or financial
22 organization on which the banking organization or financial
23 organization is only secondarily liable.

24 (18) "Utility" means a person who owns or operates for public use
25 any plant, equipment, property, franchise, or license for the
26 transmission of communications or the production, storage,
27 transmission, sale, delivery, or furnishing of electricity, water,
28 steam, or gas.

29 (19) "Cardholder" means the holder of a rewards card, regardless
30 of whether the rewards card is represented by a card or an electronic
31 record.

32 (20) (a) "Rewards card" means any loyalty, incentive, or
33 promotional program managed by a financial organization or a business
34 association, whether represented by a card or electronic record, and
35 established for the purpose of providing cardholder awards, rewards,
36 rebates, or other amounts to compensate the cardholder for the
37 cardholder's relationship with the entity sponsoring the rewards
38 card, provided that no direct money was paid by the cardholder for
39 the rewards card.

40 (b) A rewards card includes:

1 (i) Cards or electronic records consisting of points, cash, or
2 other tokens of value given to a cardholder as a reward or incentive
3 for engaging in a transaction or a series of transactions; or

4 (ii) The portion of a rewards card funded by the issuer as a
5 reward or incentive when the rewards card is partially loaded by the
6 cardholder.

7 **Sec. 7.** RCW 63.29.020 and 2015 3rd sp.s. c 6 s 2101 are each
8 amended to read as follows:

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

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

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

23 (4) This chapter does not apply to property covered by chapter
24 63.26 RCW.

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

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

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

31 (6) This chapter does not apply to a gift certificate or a
32 rewards card lawfully issued under chapter 19.240 RCW, except
33 lawfully issued gift certificates presumed abandoned under RCW
34 63.29.110. Nothing in this section limits the application of chapter
35 19.240 RCW.

36 (7) Except as provided in RCW 63.29.350, this chapter does not
37 apply to excess proceeds held by counties, cities, towns, and other
38 municipal or quasi-municipal corporations from foreclosures for
39 delinquent property taxes, assessments, or other liens.

1 (8) (a) This chapter does not apply to a premium paid by an
2 agricultural fair by check.

3 (b) For the purposes of this subsection the following definitions
4 apply:

5 (i) "Agricultural fair" means a fair or exhibition that is
6 intended to promote agriculture by including a balanced variety of
7 exhibits of livestock and agricultural products, as well as related
8 manufactured products and arts, including: Products of the farm home
9 and educational contests, displays, and demonstrations designed to
10 train youth and to promote the welfare of farmers and rural living;
11 and

12 (ii) "Premium" means an amount paid for exhibits and educational
13 contests, displays, and demonstrations of an educational nature. A
14 "premium" does not include judges' fees and expenses; livestock sale
15 revenues; or prizes or amounts paid for promotion or entertainment
16 activities such as queen contests, parades, dances, rodeos, and
17 races.

18 **Sec. 8.** RCW 63.29.140 and 2015 3rd sp.s. c 6 s 2102 are each
19 amended to read as follows:

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

24 (2) In the case of a gift certificate, the amount presumed
25 abandoned is the price paid by the purchaser for the gift
26 certificate. In the case of a credit memo, the amount presumed
27 abandoned is the amount credited to the recipient of the memo.

28 (3) A gift certificate that is lawfully issued under chapter
29 19.240 RCW and that is presumed abandoned under this section may, but
30 need not, be included in the report as provided under RCW
31 63.29.170(4).

32 (4) Rewards cards must not be included in the report as provided
33 under RCW 63.29.170.

34 NEW SECTION. **Sec. 9.** A new section is added to chapter 19.240
35 RCW to read as follows:

1 A minimum annual fee charged to a cardholder for any loyalty,
2 incentive, or promotional program is not direct money paid by the
3 cardholder for a rewards card.

--- **END** ---