

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2185**

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**Introduced by Assembly Member ~~Bradford Lieu~~**

February 18, 2010

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~~An act to amend Section 1786.22 of the Civil Code, relating to consumer information. An act to add Sections 1749.55 and 1749.56 to the Civil Code, relating to gift certificates.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2185, as amended, ~~Bradford Lieu. Investigative consumer reporting agencies. Gift certificates.~~

*Existing law prohibits the sale of any gift certificate that contains an expiration date or service fee. Existing law excepts from those provisions specified gift certificates, including, but not limited to, those that are distributed by the issuer to a consumer pursuant to an award, loyalty, or promotional program without any money or other thing of value being given in exchange for the gift certificate by the consumer, as specified. Gift certificate is defined for these purposes to include gift cards, but does not include any gift card usable with multiple sellers of goods or services, as specified.*

*This bill would prohibit a retailer from advertising as a gift certificate or gift card any promotional item, award, or loyalty that does not comply with the laws pertaining to gift certificates. The bill would require any of those items resembling a gift certificate or gift card to include on the front of the item the terms and conditions of use as well as a notice in 10-point boldface type that the item is not a gift certificate or gift card. The bill also would prohibit the sale of a gift card usable with multiple sellers of goods or services that requires a service fee, including, but*

not limited to, a service fee for activation, application, installation, or dormancy.

Existing law requires every investigative consumer reporting agency to allow a consumer, upon request and proper identification, to visually inspect all files maintained regarding the consumer at the time of the request. The agency is required to supply the files and specified information during normal business hours and on reasonable notice, as provided, and to provide trained personnel to explain any information furnished to the consumer.

This bill would make technical, nonsubstantive changes to these provisions:

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1749.55 is added to the Civil Code,  
2 immediately following Section 1749.5, to read:

3 1749.55. It is unlawful for a retailer to advertise as a gift  
4 certificate or gift card any promotional item, award, or loyalty  
5 that does not comply with the requirements of Sections 1749.5 and  
6 1749.6 and any other existing laws or regulations pertaining to  
7 gift certificates or gift cards. Any of those items resembling a gift  
8 certificate or gift card shall meet the following requirements:

9 (a) The front of the item shall disclose the terms and conditions  
10 of use.

11 (b) The front of the item shall contain a notice printed in  
12 10-point boldface type that it is not a gift certificate or gift card.

13 SEC. 2. Section 1749.56 is added to the Civil Code, to read:

14 1749.56. It is unlawful for any person or entity to sell a gift  
15 card usable with multiple sellers of goods or services that requires  
16 a service fee, including, but not limited to, a service fee for  
17 activation, application, installation, or dormancy.

18 SECTION 1. Section 1786.22 of the Civil Code is amended  
19 to read:

20 1786.22. (a) An investigative consumer reporting agency shall  
21 supply files and information required under Section 1786.10 during  
22 normal business hours and on reasonable notice.

23 (b) Files maintained on a consumer shall be made available for  
24 the consumer's visual inspection, as follows:

1 (1) ~~In person, if the consumer appears in person and furnishes~~  
2 ~~proper identification. A copy of his or her file shall also be~~  
3 ~~available to the consumer for a fee not to exceed the actual costs~~  
4 ~~of the duplication services provided.~~

5 (2) ~~By certified mail, if he or she makes a written request, with~~  
6 ~~proper identification, for copies to be sent to a specified addressee.~~  
7 ~~Investigative consumer reporting agencies complying with requests~~  
8 ~~for certified mailings under this section shall not be liable for~~  
9 ~~disclosures to third parties caused by mishandling of mail after~~  
10 ~~those mailings leave the investigative consumer reporting agencies.~~

11 (3) ~~A summary of all information contained in files on a~~  
12 ~~consumer and required to be provided by Section 1786.10 shall~~  
13 ~~be provided by telephone, if the consumer has made a written~~  
14 ~~request, with proper identification for telephone disclosure, and~~  
15 ~~the toll charge, if any, for the telephone call is prepaid by or~~  
16 ~~charged directly to the consumer.~~

17 (e) ~~The term “proper identification,” as used in subdivision (b),~~  
18 ~~means that information generally deemed sufficient to identify a~~  
19 ~~person. That information includes documents such as a valid~~  
20 ~~driver’s license, social security account number, military~~  
21 ~~identification card, and credit cards. Only if the consumer is unable~~  
22 ~~to reasonably identify himself or herself with the information~~  
23 ~~described above, may an investigative consumer reporting agency~~  
24 ~~require additional information concerning the consumer’s~~  
25 ~~employment and personal or family history in order to verify his~~  
26 ~~or her identity.~~

27 (d) ~~The investigative consumer reporting agency shall provide~~  
28 ~~trained personnel to explain any information furnished to the~~  
29 ~~consumer pursuant to Section 1786.10.~~

30 (e) ~~The investigative consumer reporting agency shall provide~~  
31 ~~a written explanation of any coded information contained in files~~  
32 ~~maintained on a consumer. This written explanation shall be~~  
33 ~~distributed whenever a file is provided to a consumer for visual~~  
34 ~~inspection as required under Section 1786.22.~~

35 (f) ~~The consumer shall be permitted to be accompanied by one~~  
36 ~~other person of his or her choosing, who shall furnish reasonable~~  
37 ~~identification. An investigative consumer reporting agency may~~  
38 ~~require the consumer to furnish a written statement granting~~

- 1 ~~permission to the consumer reporting agency to discuss the~~
- 2 ~~consumer's file in that other person's presence.~~

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