



HOUSE BILL 126

Commercial Law – Gift Certificates – Balances – Presumption of Abandonment

February 5, 2009

POSITION: Oppose

Mr. Chairman and Members of the House Economic Matters Committee:

The *Restaurant Association of Maryland* strongly opposes House Bill 126, which would require that unused gift certificate/gift card balances be considered “abandoned property” and remitted to the State Comptroller for use in Maryland’s general fund. This forfeiture of unredeemed revenue to state government is commonly known as “escheatment.”

Passage of this legislation would create an administrative burden on businesses. Many businesses do not currently keep purchaser information on file for gift certificate/gift card sales. It would be difficult to report such abandoned property information to the state, especially for gift certificates/gift cards that are purchased with cash or given to a third party as a gift.

According to IRS and Maryland tax code, any unredeemed gift certificate/gift card revenue retained by businesses must be reported as income after two years. It is unclear how this legislation would be affected by the tax code. Moreover, many businesses use no expiration date at all for their gift certificates/gift cards.

If this legislation were to become law, it is unlikely that the state will realize anticipated revenues because abandoned property case law generally dictates that such property escheats to the state in which the issuing business is incorporated. In many cases, such corporations are not domiciled in Maryland. Consequently, Maryland may not receive the anticipated revenue sought by this legislation. Moreover, smaller Maryland-based businesses would be disproportionately affected by this legislation.

Although this bill was introduced with the intent of providing additional revenue to Maryland’s general fund, this legislation will likely result in lower than predicted revenue and significantly more paperwork for affected businesses. For these reasons, we oppose House Bill 126 and request an unfavorable report.

Respectfully submitted,

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