



General Assembly

January Session, 2009

Raised Bill No. 925

LCO No. 3432

03432_____GL_

Referred to Committee on General Law

Introduced by:
(GL)

**AN ACT ESTABLISHING A RESTAURANT GIFT CARD AND
CERTIFICATE GUARANTY FUND.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) As used in sections 2 and
2 3 of this act:

3 (1) "Restaurant" means space, in a suitable and permanent building,
4 kept, used, maintained, advertised and held out to the public to be a
5 place where hot meals are regularly served, but which has no sleeping
6 accommodations for the public and which is provided with an
7 adequate and sanitary kitchen and dining room and employs at all
8 times an adequate number of employees, and

9 (2) "Gift card" or "gift certificate" means a record evidencing a
10 promise, made for consideration, by the seller or issuer of the record
11 that goods or services will be provided to the owner of the record to
12 the value shown in the record and includes, but is not limited to, a
13 record that contains a microprocessor chip, magnetic stripe or other
14 means for the storage of information that is prefunded and for which
15 the value is decremented upon each use, an electronic gift card, stored-

16 value card or certificate, a store card, or a similar record or card, but
17 does not include prepaid calling cards regulated under section 42-370
18 of the general statutes or prepaid commercial mobile radio services, as
19 defined in 47 CFR Section 20.3.

20 Sec. 2. (NEW) (*Effective October 1, 2009*) (a) No owner of a restaurant,
21 or agent of such owner, shall issue a gift card or gift certificate without
22 having paid to the Connecticut Restaurant Gift Card and Certificate
23 Guaranty Fund the annual fee established pursuant to section 3 of this
24 act.

25 (b) Any owner of a restaurant or any person holding twenty-five per
26 cent or more of the equity in the entity that owns a restaurant shall be
27 personally liable to a gift card or certificate holder for the unexpired
28 balance on such card or certificate if such restaurant owner or its agent
29 issued the gift card or certificate knowing that the restaurant would be
30 closed for business within ninety days of the date of issuance.

31 (c) A violation of any provision of this section shall constitute an
32 unfair or deceptive practice under subsection (a) of section 42-110b of
33 the general statutes.

34 Sec. 3. (NEW) (*Effective October 1, 2009*) (a) The Commissioner of
35 Consumer Protection shall establish and maintain the "Connecticut
36 Restaurant Gift Card and Certificate Guaranty Fund" in accordance
37 with the provisions of this section.

38 (b) On October 1, 2009, and annually thereafter, each owner of a
39 restaurant shall pay a fee of one hundred dollars annually to the fund
40 established pursuant to subsection (a) of this section, except that the
41 Commissioner of Consumer Protection may assess a reduced fee if, on
42 July first immediately preceding the due date of such fee, the fund
43 balance exceeds five hundred thousand dollars. In determining the fee
44 to be assessed, the commissioner shall consider the amount necessary
45 to meet reasonably anticipated disbursements from the fund, less
46 reimbursements and fee revenue, while maintaining a fund balance of

47 not less than five hundred thousand dollars.

48 (c) Payments received under subsection (b) of this section shall be
49 credited to the fund established pursuant to subsection (a) of this
50 section. Moneys in the fund may be invested or reinvested in the same
51 manner as funds of the state employees retirement system, and the
52 interest derived from such investments shall be credited to the fund.

53 (d) If a restaurant is no longer in operation at the location where the
54 gift card or certificate was issued, the gift card or certificate holder may
55 apply to the commissioner for payment of any unexpended balance on
56 such gift card or certificate from the fund.

57 (e) The commissioner shall provide application forms for payment
58 from the guaranty fund. The application shall include: (1) The name
59 and address of the restaurant, (2) the amount of the gift card or
60 certificate, and (3) such other information required by the
61 commissioner. No application for payment from the fund shall be
62 accepted by the commissioner more than six months after the date of
63 the closing of the location of the restaurant that issued the gift card or
64 certificate.

65 (f) The commissioner shall proceed upon such application and may
66 hold a hearing in accordance with the provisions of chapter 54 of the
67 general statutes. Notwithstanding the provisions of chapter 54 of the
68 general statutes, the decision of the commissioner shall be final with
69 respect to such application. The commissioner may hear applications
70 of all buyers submitting claims against a single restaurant in one
71 proceeding.

72 (g) The commissioner shall issue an order requiring payment from
73 the fund of any sum the commissioner finds to be payable upon such
74 application. The total compensation payable from the fund relating to
75 the closing of any one restaurant location shall not exceed seventy-five
76 thousand dollars.

77 (h) If the commissioner pays any amount as a result of a claim
78 against a restaurant pursuant to an order issued pursuant to
79 subsection (g) of this section, the owner of the restaurant shall not own
80 or operate another restaurant in the state until such owner has repaid
81 such amount in full, plus interest, at a rate to be determined by the
82 commissioner.

83 (i) If the commissioner pays any amount as a result of a claim
84 against a restaurant pursuant to an order under subsection (g) of this
85 section, the commissioner shall determine if the restaurant or
86 restaurant owner is possessed of real or personal property or other
87 assets, liable to be sold or applied in satisfaction of the claim on such
88 fund. If the commissioner discovers any such assets, the commissioner
89 may request the Attorney General to take any action necessary for the
90 reimbursement of the fund.

91 (j) In order to preserve the integrity of the fund, the commissioner
92 may order payments to be made out of such fund for amounts less
93 than the actual loss incurred by any gift card or certificate holder.

94 (k) When the commissioner has caused any sum to be paid from the
95 fund to a gift card or certificate holder, the commissioner shall be
96 subrogated to all of the rights of such holder, up to the amount paid,
97 and the holder shall assign all of his or her right, title and interest in
98 the claim, up to such sum paid, to the commissioner and any amount
99 and interest recovered by the commissioner on such claim shall be
100 deposited to the fund.

101 (l) The Department of Consumer Protection may be reimbursed in
102 an annual amount of not more than fifty thousand dollars of the
103 resources of the fund to pay for the costs of administering such fund.

104 (m) The commissioner may adopt regulations, in accordance with
105 chapter 54 of the general statutes, to carry out the purposes of this
106 section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section
Sec. 2	<i>October 1, 2009</i>	New section
Sec. 3	<i>October 1, 2009</i>	New section

Statement of Purpose:

To establish the Connecticut Restaurant Gift Card and Certificate Guaranty Fund.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]