



General Assembly

January Session, 2009

**Amendment**

LCO No. 7642

\*SB0097407642HDO\*

Offered by:  
REP. SHAPIRO, 144<sup>th</sup> Dist.

To: Senate Bill No. 974

File No. 128

Cal. No. 598

**"AN ACT CONCERNING ORGANIZED RETAIL THEFT."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2009*) (a) As used in this  
4 section and section 2 of this act, "gift card" or "gift certificate" shall  
5 have the same meaning as "gift certificate", as defined in subdivision  
6 (5) of section 3-56a of the general statutes, as amended by this act.

7 (b) No owner of an establishment that sells goods, food or services  
8 to the public at retail, or agent of such owner, shall issue a gift card or  
9 gift certificate without having paid to the Connecticut Retail Gift Card  
10 and Certificate Guaranty Fund the annual fee established pursuant to  
11 section 2 of this act.

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

15       Sec. 2. (NEW) (*Effective October 1, 2009*) (a) The Commissioner of  
16 Consumer Protection shall establish and maintain the "Connecticut  
17 Retail Gift Card and Certificate Guaranty Fund" in accordance with the  
18 provisions of this section.

19       (b) On October 1, 2009, and annually thereafter, each owner of an  
20 establishment that sells goods, food or services to the public at retail,  
21 or agent of such owner, shall pay a fee of twenty-five dollars for each  
22 such establishment, subject to the provisions of subsection (k) of this  
23 section. Such payments shall be made annually to the fund established  
24 pursuant to subsection (a) of this section, except that the  
25 Commissioner of Consumer Protection may assess a reduced fee if, on  
26 July first immediately preceding the due date of such fee, the fund  
27 balance exceeds five hundred thousand dollars. In determining the fee  
28 to be assessed, the commissioner shall consider the amount necessary  
29 to meet reasonably anticipated disbursements from the fund, less  
30 reimbursements and fee revenue, while maintaining a fund balance of  
31 not less than five hundred thousand dollars.

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

37       (d) If a retail establishment is no longer in operation at the location  
38 where the gift card or certificate was issued, the gift card or certificate  
39 holder may apply to the commissioner for payment of any  
40 unexpended balance on such gift card or certificate from the fund.

41       (e) The commissioner shall provide application forms for payment  
42 from the guaranty fund. The application shall include: (1) The name  
43 and address of the retail establishment, (2) the amount of the gift card  
44 or certificate, and (3) such other information required by the  
45 commissioner. No application for payment from the fund shall be  
46 accepted by the commissioner more than six months after the date of

47 the closing of the location of the retail establishment that issued the gift  
48 card or certificate.

49 (f) The commissioner shall proceed upon such application and may  
50 hold a hearing in accordance with the provisions of chapter 54 of the  
51 general statutes. Notwithstanding the provisions of chapter 54 of the  
52 general statutes, the decision of the commissioner shall be final with  
53 respect to such application. The commissioner may hear applications  
54 of all consumers submitting claims against a single retail establishment  
55 in one proceeding.

56 (g) The commissioner shall issue an order requiring payment from  
57 the fund of any sum the commissioner finds to be payable upon such  
58 application. The total compensation payable from the fund relating to  
59 the closing of any one retail establishment location shall not exceed  
60 seventy-five thousand dollars.

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

64 (i) When the commissioner has caused any sum to be paid from the  
65 fund to a gift card or certificate holder, the commissioner shall be  
66 subrogated to all of the rights of such holder, up to the amount paid,  
67 and the holder shall assign all of his or her right, title and interest in  
68 the claim, up to such sum paid, to the commissioner and any amount  
69 and interest recovered by the commissioner on such claim shall be  
70 deposited to the fund.

71 (j) The Department of Consumer Protection may be reimbursed in  
72 an annual amount of not more than fifty thousand dollars of the  
73 resources of the fund to pay for the costs of administering such fund.

74 (k) The provisions of this section and section 1 of this act shall only  
75 apply to retail establishments that issue or intend to issue gift cards or  
76 gift certificates in this state in total amounts exceeding five thousand  
77 dollars in a calendar year. No owner of a retail establishment or agent

78 of such owner shall be required to pay in excess of one thousand  
79 dollars per calendar year to the fund established pursuant to  
80 subsection (a) of this section.

81 (l) The commissioner may adopt regulations, in accordance with  
82 chapter 54 of the general statutes, to carry out the purposes of this  
83 section.

84 Sec. 3. Subdivision (5) of section 3-56a of the general statutes is  
85 repealed and the following is substituted in lieu thereof (*Effective July*  
86 *1, 2009*):

87 (5) "Gift certificate" means a record evidencing a promise, made for  
88 consideration or donated to a charitable or political organization, by  
89 the seller or issuer of the record that goods or services will be provided  
90 to the owner of the record to the value shown in the record and  
91 includes, but is not limited to, a record that contains a microprocessor  
92 chip, magnetic stripe or other means for the storage of information that  
93 is prefunded and for which the value is decremented upon each use, a  
94 gift card, an electronic gift card, stored-value card or certificate, a store  
95 card, or a similar record or card, but "gift certificate" does not include  
96 prepaid calling cards regulated under section 42-370 or prepaid  
97 commercial mobile radio services, as defined in 47 [C.F.R.] CFR Sec.  
98 20.3.

99 Sec. 4. Section 42-460 of the general statutes is repealed and the  
100 following is substituted in lieu thereof (*Effective July 1, 2009*):

101 (a) No person may sell or issue a gift certificate [, as defined in  
102 section 3-56a,] that is subject to an expiration date, a dormancy charge  
103 or fee, escheat charge or fee, inactivity charge or fee or any similar  
104 charge, fee or penalty for inactivity. No gift certificate or any  
105 agreement with respect to such gift certificate may contain language  
106 suggesting that an expiration date or such dormancy, escheat,  
107 inactivity or similar charge, fee or penalty for inactivity may apply to  
108 the gift certificate. As used in this section, "gift certificate" shall have  
109 the same meaning as defined in subdivision (5) of section 3-56a, as

110 amended by this act; and "inactivity fee" means a deduction against the  
 111 balance on such gift certificate when the balance or any portion of such  
 112 balance has not been spent within a specified time.

113 (b) Nothing in this section shall be construed to prevent a holder  
 114 from honoring a gift certificate, the unredeemed value of which has  
 115 been reported to the Treasurer pursuant to part III of chapter 32, and  
 116 thereafter seeking reimbursement from the Treasurer.

117 (c) Any person selling or issuing a gift certificate that is not subject  
 118 to the provisions of this section because such provisions are preempted  
 119 by the federal National Bank Act shall provide a clear and conspicuous  
 120 description on such gift certificate or on a label affixed on such gift  
 121 certificate of any expiration date, dormancy, escheat or inactivity  
 122 charge or fee or any similar charge, fee or penalty for inactivity related  
 123 to such gift certificate.

124 (d) A violation of the provisions of this section shall be an unfair or  
 125 deceptive trade practice under subsection (a) of section 42-110b."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section
Sec. 2	October 1, 2009	New section
Sec. 3	July 1, 2009	3-56a(5)
Sec. 4	July 1, 2009	42-460