

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 2447

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INTRODUCED BY REPRESENTATIVE ARTHUR C. YAP

EXPLANATORY NOTE

“Prepaid”, is a relatively recent term brought about by technological advancement and modernization.

Wikipedia, the web-based, free-content encyclopedia, written collaboratively by Internet users, defines “Prepaid” as referring to services paid for in advance. Examples include tolls, pay as you go cell phones, and stored-value cards such as gift cards and preloaded credit cards. Prepaid accounts are assets, and they are increased by debiting the account(s).

It continues by saying that prepaid services and goods are sometimes targeted to marginal customers by retailers. Prepaid options can have substantial cost reductions over postpaid counterparts because they allow customers to monitor and budget usage in advance.

In the Philippines, the advent of prepayment for goods or services was several decades ago with the use of “gift certificates”. These certificates were sort of cash vouchers issued by, purchased from, and accepted as, payment for goods sold in department stores, supermarkets and other retail establishments.

Today, the prepaid concept has permeated almost all spectra of commercial transactions. With the use of the technology of storing of monetary values in common prepaid cards, goods and services can now be prepaid, including public utility services, restaurants, cable or satellite television, internet service provider, highway toll fees, medical and even other professional services.

However, prepaid service providing is most prominent in the telecommunications sector. In the late 1990’s when the telecom companies suffered from what is then referred to as “subscription fraud”, resort was

made to the use of selling of prepaid cards instead of the then usual post paid or plan based subscription.

Today, more than 95% of the income of the telecom company giants, arguably the biggest income earners in the country, are from prepaid subscribers. Out of the estimated 70 million combined mobile phone subscriber base of the three telecom companies, less than 2 million are postpaid subscribers.

The adherence to the business model of preference for prepaid subscribers was confirmed in the Financial Statement for the first quarter of this year of one of the largest telecom firm in the country. It stated that *"The predominance of prepaid service reflects one of the distinguishing characteristics of the Philippine cellular market. The growth in our prepaid service has enabled us to increase and broaden our subscriber base rapidly while controlling credit risk and reducing billing and administrative costs on a per subscriber basis."*

Unfortunately, while the telecom companies, retail establishments, and other commercial companies have earned so much from their prepaid subscribers, they continue to engage in a rather unethical business practice, which is the imposition of expiration on prepaid cards or gift certificates.

To reiterate, this is an unethical business practice. **There is no basis, whatsoever, for the imposition of the expiration.** It is downright cheating the consumers of the moneys they paid for.

In fact, such practice can also be deemed illegal. The consumers, as buyers, have paid or gave consideration (in advance) for service or goods to be provided or sold by the seller-establishment. This is basically a contract of sale, except that the goods or services were paid in advance. This variation is even very favorable to the merchant establishment as it has been paid already, even if it still has to deliver the goods or render services.

In such a contract, the seller does have any right to unilaterally decide not to deliver the goods or provide the services by imposing an expiration of the time the buyer should get the goods or use the services.

It should never be construed that the buyer purchased the prepaid card or the gift certificate. This is because such items are worthless. Its value is in the amount of goods or services such card or certificate can purchase from the merchant.

Sadly however, this business practice continues to pervade.

In one instance, the National Telecommunications Commission, upon a directive by Congress, increased the shelf life or the expiration of cell phone cards. And it was as if such act was manna from heaven that the

consumers should be very grateful for. It was like thanking the robber for sparing the life of the victim.

This proposed measure seeks to prohibit the imposition of expiration for all prepaid cards or devices. It likewise prohibits the refusal of establishments to honor prepaid devices on the ground of its expiry. And, it seeks to provide for criminal penalties for establishments violating such prohibitions.

This bill is a reform measure aimed at changing the way big business conduct their enterprise and empowering consumers who long been prey to such incessant greed.

In view of the foregoing, the immediate passage of this bill, previously filed in the Sixteenth Congress as House Bill No. 200, is earnestly sought.



ARTHUR C. YAP
Representative

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AN ACT
PROHIBITING THE IMPOSITION OF EXPIRATION OF
PREPAID CARDS, CERTIFICATES OR OTHER
DEVICES OF PREPAYMENT OF GOODS AND
SERVICES, PROVIDING PENALTIES FOR
VIOLATIONS THEREOF, AND FOR OTHER
PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled.

1 **SECTION 1. *Short Title.*** – This Act shall be known as the “Prepaid
2 Expiration Prohibition Act of 2016”.

3 **SECTION 2. *Declaration of Policy.*** – It hereby declared the policy
4 of the State to protect and empower consumers, reform the unprincipled
5 business practices of big establishments.

6 **SECTION 3. *Definition of Terms.*** For purpose of this Act, the
7 following terms shall mean:

- 8 a. Prepaid – goods and/or services paid for in advance, *Provided,*
9 that, those which were granted or availed of without any
10 consideration shall not fall within this definition.

1 b. Prepaid Device – is any device, in the form of a card, certificate,
2 coupon, document, record, code, plate, electronic serial number,
3 identification code or number, or any other proof of payment or
4 means to pay a prepaid good and or service, usually with a face
5 value or with memory storage of its monetary value.

6 **SECTION 4. *Prohibition on Imposition of Expiration for Prepaid***
7 ***Cards or Other Proof of Prepaid Services.*** Any provision of law to the
8 contrary notwithstanding, the imposition of an expiration of the date to use a
9 prepaid device is hereby prohibited. The refusal of an establishment to honor
10 a prepaid device due to its expiration shall likewise be prohibited.

11 **SECTION 5. *Penalties*** - Any goods or services provider who shall be
12 found guilty of violating any of the provisions of this Act shall be punished
13 with:

14 a. imprisonment ranging from thirty (30) days to six (6) months or fine
15 ranging from One Thousand Pesos (P1,000.00) to Ten Thousand
16 Pesos (P10,000.00), or both, at the discretion of the Court;

17 b. imprisonment ranging from six (6) months and one (1) day to two (2)
18 years or fine ranging from Twenty Thousand Pesos (P20,000.00) to
19 Fifty Thousand Pesos (P50,000.00), or both, at the discretion of the
20 Court;

21 c. imprisonment ranging from two (2) years and one (1) day to six (6)
22 years, or fine of ranging from One Hundred Thousand Pesos
23 (P100,000.00) to Five Hundred Thousand Pesos (P500,000.00), or
24 both, at the discretion of the Court.

1 If the establishment is a juridical person, the penalty of imprisonment
2 shall be imposed against the responsible officer.

3 **SECTION 6. *Separability Clause.*** - If any provision of this Act, or
4 any parts thereof, is declared unconstitutional, the same shall not affect the
5 validity and effectivity of the other portions.

6 **SECTION 7. *Repealing Clause.*** - All laws, executive orders,
7 presidential decrees, proclamations, rules, regulations, issuances and
8 enactments of parts thereof inconsistent with this Act are hereby repealed or
9 modified accordingly.

10 **SECTION 8. *Effectivity.*** - This Act shall take effect fifteen (15) days
11 from its complete publication in the Official Gazette or in a newspaper of
12 general circulation in the Philippines, whichever comes earlier.

APPROVED.