



CONSUMER NEWS

SAN DIEGO CITY ATTORNEY'S OFFICE

Gift Cards

November 2010

Giving and receiving gift cards has become very popular. Their variety spans from restaurants to clothing stores to pre-paid credit cards. In August, new federal rules protecting gift card purchasers became effective under the Credit Card Accountability Responsibility and Disclosure Act. In addition, California law provides protection for gift card purchasers.

PROTECTIONS FOR GENERAL USE AND AFFILIATED STORE PRE-PAID CARDS:

The greatest impact of the new federal rules in California is on general use pre-paid cards and affiliated store gift cards. These cards offer great flexibility, but have also been notorious for their fees and expiration dates.

Typical examples of general use cards include cards for a set amount of money with MasterCard, Visa, Discovery, or American Express logos. Gift cards for multiple affiliated stores include those redeemable at all stores of a

shopping mall or a restaurant group. Now consumers have added protections for both of these types of gift cards:

- The card cannot expire within five years from the date issued or the date funds were last loaded. The expiration date must be clearly stated.
- No post-sale service fees or dormancy fees can be charged unless there has been no activity on the card for at least one year. After one year, there can be only one fee charged per month. (However, a one-time initial issuance fee is legal.)

These protections do not apply to:

Cards, certificates, or other payment devices that are:

- Loyalty, promotional, or award based, where no money or other value was exchanged.
- Exclusively for telephone service, such as long distance calling cards.

- Reloadable and not marketed as gift cards.
- Not marketed to the general public.
- Issued in paper form only.
- Redeemable for admission, services, or goods for an event or venue.

PROTECTIONS FOR STORE SPECIFIC GIFT CARDS:

California law governs gift cards issued by store owners that can only be used at their stores. It is generally unlawful for a store owner to sell a gift card that contains *any* expiration date or service fee.

Effective January 1, 2008, if the amount left on a store specific gift card is less than ten dollars, it is redeemable for its cash value. Otherwise, the law allows the store the option of giving the customer a gift card for the remaining amount.

These protections do not apply to:

- Loyalty, promotional, or award based cards where

no money or other value was exchanged.

- Donated or discounted gift cards issued for fundraising purposes.
- Gift cards for perishable food products (meals at restaurants are not considered food products).

BANKRUPTCY:

If a business that has issued a consumer a gift card goes out of business, the consumer can file a claim in bankruptcy court if he/she has not redeemed the card. Unfortunately, as an unsecured creditor, it may be unlikely the customer will get his/her money back.

TIPS FOR DEALING WITH GIFT CARD FEES AND EXPIRATION DATES:

If you have an issue with a gift card fee or expiration date, first approach the merchant and try to redeem the card for its lawful value. If you are in San Diego and believe a merchant has wrongfully failed to honor a gift card or that you are being charged unlawful fees, please contact the City Attorney's Consumer & Environmental Protection Unit to report the violations.

**San Diego
City Attorney's Office
Consumer and Environmental
Protection Unit
(619) 533-5600**

Newsletter written by Katie Codon.

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Sources: Civil Code sections 1749.5-1749.6; 15 U.S.C. 1693 et seq.

The information provided in this newsletter is intended to convey general information and is not

intended to be relied upon as legal advice.

To report violations of consumer protection laws, call the City Attorney's Hotline at **(619) 533-5600**.