

SB760_AARP_Morgan_FAV.pdf

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SB 760 – Consumer Protection – Retail Sales of Gift Cards (Gift Card Scams Prevention Act of 2024)
FAVORABLE
Senate Finance Committee
February 28, 2024

Good afternoon, Chairman Beidle and Members of the Senate Finance Committee. I am Karen Morgan, a member of the Executive Council for AARP Maryland. As you may know, AARP Maryland is one of the largest membership-based organizations in the Free State, encompassing almost 850,000 members. We thank Senator Kramer for sponsoring this legislation.

AARP is a nonpartisan, nonprofit, nationwide organization that helps people turn their goals and dreams into real possibilities, strengthens communities, and fights for the issues that matter most to families such as health care, employment and income security, retirement planning, affordable utilities, and protection from financial abuse.

At AARP, there are two things we are very fond of saying. One mantra is “gift cards are for gifts,” and the other mantra is, “if you can spot a scam, you can stop a scam.” AARP does numerous virtual and in-person presentations around Maryland, especially around the holidays, and we say these mantras over and over again. Consumer education is a very important contribution to fraud prevention, but it is not a silver bullet. Gift card fraud needs to be attacked on multiple fronts. Consumers need help in avoiding the complicated, deceptive, and nefarious ways in which gift card fraud can be inflicted. That is why we are here in support of SB 760 today.

Gift cards used to be easy. It was (and still is) the go-to gift for the person who has everything or the just-married couple, the college grad, and the teenager. But what is easy for consumers has become far too easy for scammers to coopt, invade, and ruin.

During 2023, the Federal Trade Commission determined that U.S. consumers reported a loss of \$217 million due to gift or reloadable cards.

In 2022, AARP conducted a survey of U.S. consumers on gift card scams.

Here are some of the key findings:

- More than one-third of U.S. adults have been targeted by gift card scams;
- Of those targeted, about one-quarter purchased gift cards and shared the numbers off the back because they thought they were taking care of a financial obligation;

- Targets were approached to purchase gift cards to pay a fee for a “sweepstakes prize,” to pay for a service or product upfront, or to do a favor for a friend or a person at the workplace, among other pretenses;
- About one-quarter of U.S. consumers have either given or received a gift card that was already drained of funds, and more than one-third of those consumers took action by calling the number on the gift card or visiting the card issuer website;
- More than half of the survey respondents who lost funds and tried to notify the card issuer were not able to obtain a credit or refunds for the missing balance; and
- Nearly 9 in 10 consumers agree and 61% of those *strongly agree* that lawmakers need to do more to protect consumers from frauds and scams.

Scammers have deceived consumers into using gift cards for grandparent scams, to frighten people into paying their (already current) utility bills, to pay supposedly overdue taxes, and even to avoid bogus prosecution threats.

This is not a new problem. AARP research indicates that scammers have latched onto gift cards as a form of payment for years, with the reported costs from this type of fraud rising into the hundreds of millions of dollars annually since 2018. Of course, estimated losses pertain only to the gift card fraud that we know about. The majority of gift card fraud goes unreported and monetary losses are likely significantly higher.

These criminals use software that alerts them when a tampered card has been presented for payment and they can drain the card of funds in seconds. So-called “tech-support” scammers can convince people that their computer is riddled with viruses that can be eradicated by paying the scammer with a gift card. Scammers love to use gift cards because they are readily available, virtually untraceable, easily converted to cash or cryptocurrency, and let the criminals move large amounts of money via small parcels.

This bill would require the merchants who sell gift cards, whether online or in brick-and-mortar stores, to be more proactive in alerting consumers to the very real risks that are now attached to gift card purchases. Online merchants would have to register with the Office of Attorney General to continue to sell gift cards to Maryland residents, and would have to conspicuously display a warning on a webpage that appears before a gift card sale is finalized. Brick-and-mortar merchants would have to ensure that gift cards are enclosed in tamper-resistant packaging, with a warning about broken packaging or tampering. Exceptions would exist for chip-enabled, numberless cards that are sold exclusively by a merchant or group of affiliated merchants for use only in their establishments, but even then, the gift cards would have to be secured in a location that is accessible only by an employee. Brick-and-mortar merchants would have to train their employees to identify and respond to the signs of gift card fraud.

Merchants may believe that they are being unfairly targeted by being required to do more to prevent gift card fraud. Merchants haven’t caused this problem. But they benefit by making profits from every gift card sale on their websites or on their premises. They need to do more to help shore

up the defenses against this type of fraud. Letting consumers know that if they can spot a scam, they can stop a scam, and that gift cards are really only for gifts, can help prevent this type of fraud. But on a website or in a store, seeing additional information about the scams that can be perpetrated may cause a consumer to stop again and think about what they are doing. Of course, we want law enforcement to catch these criminals, but a sweeter victory is preventing the fraud from happening in the first place. Merchants are a last line of defense in helping to preventing this crime before it happens.

AARP supports SB 760 and respectfully requests the Senate Finance Committee to issue a favorable report. For questions, please contact Tammy Bresnahan, Director of Advocacy for AARP Maryland at tbresnahan@arp.org or by calling 410-302-8451.

InComm Payments Testimony - FWA - Senate Bill 760.

Uploaded by: Jason Weintraub

Position: FWA

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February 28, 2024

VIA ELECTRONIC MAIL

Chair Pamela G. Beidle
Senate Finance Committee
Miller Senate Office Building, 2 East
Annapolis, Maryland 21401

Re: **Favorable with Amendments on behalf of InComm
Payments – Senate Bill 760 – Consumer Protection -
Retail Sales of Gift Cards**

Chair Beidle:

InComm Payments (“InComm”) has been a leader in the prepaid and gift card industry for over 30 years. InComm’s products and programs are used by tens of millions of consumers each year and their gift cards continue to expand in consumer popularity. In recent years, criminals have greatly increased their efforts targeting the gift card industry – and InComm has not been immune. Although fraud only impacts an extremely small percentage of all prepaid cards sold, InComm is fully committed to supporting those consumers who are affected. InComm has been, and remains, at the forefront of innovation designed to combat fraudsters, leveraging new technologies, monitoring systems, and other security practices.

InComm supports a number of the fraud prevention measures in Senate Bill 760 and appreciates the Sponsor’s willingness to share draft amendments with us pertaining to the regulation of third-party marketplaces, in-store signage, and employee training. **However, InComm respectfully requests amendments to the open loop packaging requirements set forth in §14-4603(A)(3) of the bill.** It is imperative that the gift card industry maintains packaging flexibility to be able to continually innovate to combat rapidly evolving fraud techniques.

InComm is concerned with the statutory packaging constructs set forth in the bill. As proposed, the language in §14-4603(A)(3) will bind gift card issuers to packaging rules that simply will not permit the ability to adapt and evolve without legislative changes. For instance, while it may be logical to restrict the visibility of *card redemption data* (such as card or PIN number, CVV, expiration date (if any), or any other data utilized when redeeming a card), InComm feels strongly

there are no consumer benefits to restricting the visibility of *card activation data*. In fact, there are trusted anti-fraud techniques which leverage the visibility of activation data.

Furthermore, there is no reason to restrict any other non-redemption data that may be placed in a visible manner on the outside of the packaging – that data can also be of significant value in supporting both anti-fraud techniques as well as improved customer service functionality.

InComm’s proposed amendment to the Sponsor’s open loop packaging requirement is set forth below:

Senate Bill 760

(First Reading File Bill, as amended by proposed sponsor amendments)

Amendment No. 1:

On page 3, in line 22:

(3) FOR AN IN-PERSON SALE, ~~THE AN~~ OPEN-LOOP GIFT CARD; IS ENCLOSED IN SECURE PACKAGING THAT:

(i) IS SEALED IN A MANNER TO PROTECT A GIFT CARD’S REDEMPTION DATA THAT IS NOT EASILY OPENED WITHOUT SIGNS OF TAMPERING; ~~AND CONCEALS ALL NUMERIC CODES SPECIFIC TO ACTIVATION OR REDEMPTION OF THE GIFT CARD, INCLUDING ANY BAR CODE, CVV NUMBER, PIN NUMBER, OR ACTIVATION CODE; AND~~

(ii) INCLUDES A WARNING THAT STATES (OR IS SUBSTANTIVELY SIMILAR TO) THE FOLLOWING:

“DO NOT SELL IF PACKAGING HAS BEEN BROKEN OR INDICATES TAMPERING”.

We respectfully request amendments to §14-4603(A)(3) of the bill to address our packaging concerns, and with those amendments, urge a favorable report on Senate Bill 760.

Sincerely,

/s/

Jason F. Weintraub

SB760_FinalReprint

Uploaded by: Senator Kramer

Position: FWA

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SENATE BILL 760

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By: **Senator Kramer**

Introduced and read first time: February 1, 2024

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection - Retail Sales of Gift Cards**
3 **(Gift Card Scams Prevention Act of 2024)**

4 FOR the purpose of ~~requiring a merchant that conducts an online sale of a certain gift card~~
5 ~~to register with the Division of Consumer Protection in the Office of the Attorney~~
6 ~~General in a certain manner; authorizing the Division to charge a fee for the~~
7 ~~registration; prohibiting a merchant from selling a certain open- or closed-loop gift card to~~
8 a consumer unless the
9 merchant meets certain requirements; requiring a merchant that displays a gift card
10 for sale at a retail establishment to provide certain training to the employees of the
11 merchant regarding gift card fraud; requiring the Division to create a certain model
12 notice and issue certain guidelines regarding gift card fraud; requiring a certain third-party gift
13 card reseller to record and maintain a copy of certain information for a certain period of time;
14 authorizing a law enforcement agency to request an issuer of gift cards or an issuer's agent to provide
to the law enforcement agency certain evidence reasonably foreseeable to assist in future criminal
actions under certain circumstances; making a violation of
15 this Act an unfair, abusive, or deceptive trade practice that is subject to enforcement
16 and penalties under the Maryland Consumer Protection Act; and generally relating
17 to the sale of gift cards and preventing gift card fraud.

15 BY repealing and reenacting, with amendments,
16 Article - Commercial Law
17 Section 13-301(14)(xl)
18 Annotated Code of Maryland
19 (2013 Replacement Volume and 2023 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article - Commercial Law
22 Section 13-301(14)(xli)
23 Annotated Code of Maryland
24 (2013 Replacement Volume and 2023 Supplement)

25 BY adding to
26 Article - Commercial Law
27 Section 13-301(14)(xlii); and 14-4601 through 14-4606 to be under the new subtitle
28 "Subtitle 46. Gift Card Fraud"

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1 Annotated Code of Maryland
2 (2013 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article - Commercial Law
Section 14-4601 through 14-4605
Annotated Code of Maryland
(2013 Replacement Volume and 2023 Supplement)
(As enacted by Section 1 of this Act)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
4 That the Laws of Maryland read as follows:

5 **Article - Commercial Law**

6 13-301.

7 Unfair, abusive, or deceptive trade practices include any:

8 (14) Violation of a provision of:

9 (xl) Title 14, Subtitle 13 of the Public Safety Article; [or]

10 (xli) Title 14, Subtitle 45 of this article; or

11 **(XLII) TITLE 14, SUBTITLE 46 OF THIS ARTICLE; OR**

12 **SUBTITLE 46. GIFT CARD FRAUD.**

13 **14-4601.**

14 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
15 **INDICATED.**

16 **(B) "DIVISION" HAS THE MEANING STATED IN § 13-101 OF THIS ARTICLE.**

17 ~~**(C) "GIFT CARD" MEANS A CARD, CODE, OR DEVICE THAT IS:**~~

18 ~~**(1) ISSUED TO A CONSUMER ON A PREPAID BASIS PRIMARILY FOR**~~
19 ~~**PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES IN A SPECIFIED AMOUNT,**~~
20 ~~**REGARDLESS OF WHETHER THAT AMOUNT MAY BE INCREASED OR RELOADED IN**~~
21 ~~**EXCHANGE FOR PAYMENT; AND**~~

22 ~~**(2) REDEEMABLE ON PRESENTATION BY A CONSUMER AT A SINGLE**~~
23 ~~**MERCHANT OR A GROUP OF AFFILIATED MERCHANTS.**~~

24 ~~**(C) "MERCHANT" HAS THE MEANING STATED IN § 13-101 OF THIS ARTICLE.**~~

(D) "OPEN-LOOP GIFT CARD" MEANS A CARD, CODE, OR DEVICE THAT
IS:

(1) ISSUED TO A CONSUMER ON A PREPAID BASIS PRIMARILY FOR
PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES IN A SPECIFIED AMOUNT, REGARDLESS OF
WHETHER THAT AMOUNT MAY BE INCREASED OR RELOADED IN EXCHANGE FOR
PAYMENT;

(2) IS PAYMENT CARD NETWORK BRANDED; AND

(3) (1) REDEEMABLE ON PRESENTATION AT MULTIPLE
UNAFFILIATED MERCHANTS FOR GOODS OR SERVICES WITHIN THE PAYMENT CARD NETWORK;
OR

(ii) USABLE AT AN AUTOMATED TELLER MACHINE.

(E) "THIRD-PARTY GIFT CARD RESELLER" MEANS A MERCHANT WHO, WITHOUT AUTHORIZATION FROM OR AFFILIATION WITH THE BUSINESS ENTITY ISSUING AN OPEN-LOOP GIFT CARD, IS ENGAGED IN THE BUSINESS OF:

(1) BUYING OPEN-LOOP GIFT CARDS ON BEHALF OF CONSUMERS; OR

(2) RESELLING OPEN-LOOP GIFT CARDS TO CONSUMERS.

25 14-4602.

26 ~~(A) A MERCHANT THAT CONDUCTS ONLINE SALES OF GIFT CARDS TO~~
27 ~~CONSUMERS SHALL REGISTER WITH THE DIVISION AS AN ONLINE SELLER OF GIFT~~

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1 ~~CARDS.~~

2 ~~(b) TO ENFORCE THE PROVISIONS OF THIS SUBTITLE, THE DIVISION MAY~~
 3 ~~CHARGE A MERCHANT AN ANNUAL FEE TO BE REGISTERED AS REQUIRED UNDER~~
 4 ~~THIS SECTION.~~

5 ~~(c) THE DIVISION SHALL ESTABLISH A REGISTRATION PROCESS TO CARRY~~
 6 ~~OUT THIS SECTION.~~

7 ~~14-4603.~~

8 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
 9 MERCHANT MAY NOT KNOWINGLY SELL AN OPEN-LOOP GIFT CARD TO A CONSUMER
 UNLESS:

10 (1) ~~FOR AN ONLINE SALE, THE MERCHANT IS REGISTERED AS~~
 11 ~~REQUIRED UNDER § 14-4602 OF THIS SUBTITLE;~~

12 ~~(2)~~ THE MERCHANT CONSPICUOUSLY DISPLAYS A NOTICE IN
 13 SUBSTANTIALLY THE SAME FORM AS THE MODEL NOTICE CREATED UNDER §
 14 ~~14-4605(1)~~ § 14-4604(1) OF THIS SUBTITLE:

15 (I) FOR AN IN-PERSON SALE:

16 ~~1.~~ ~~AT~~, AT OR NEAR THE PHYSICAL LOCATION WHERE ~~THE~~ :

17 1. THE
 GIFT CARD IS DISPLAYED FOR SALE; OR

18 2. ~~AT OR NEAR THE PHYSICAL LOCATION WHERE THE~~ THE
 19 SALE OCCURS; OR

20 (II) FOR AN ONLINE SALE, ON THE WEBPAGE ~~THAT DISPLAYS~~ :

1. WHERE THE GIFT CARD IS OFFERED FOR SALE; OR

2. THAT IS DISPLAYED

21 ~~IMMEDIATELY~~ BEFORE THE SALE IS FINALIZED; AND

22 ~~(2)~~ (2) FOR AN IN-PERSON SALE OF AN OPEN-LOOP GIFT CARD, THE GIFT
 CARD IS ENCLOSED IN
 23 SECURE PACKAGING THAT:

24 (I) IS SEALED IN A MANNER THAT IS NOT EASILY OPENED
 25 WITHOUT SIGNS OF TAMPERING AND CONCEALS ALL NUMERIC CODES SPECIFIC TO
 26 THE ACTIVATION OR THE REDEMPTION OF THE GIFT CARD, INCLUDING ANY BAR CODE, CVV NUMBER, PIN
 NUMBER, OR
 27 ACTIVATION CODE; AND

28 (II) INCLUDES A WARNING THAT STATES THE FOLLOWING OR USES LANGUAGE SUBSTANTIALLY
SIMILAR TO THE FOLLOWING:

29 "DO NOT SELL OR PURCHASE IF PACKAGING HAS BEEN BROKEN OR INDICATES TAMPERING".

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1 (B) A MERCHANT MAY SELL ~~A AN OPEN-LOOP~~ GIFT CARD THAT IS NOT ENCLOSED IN
 2 SECURE PACKAGING AS REQUIRED UNDER SUBSECTION ~~(A)(3)~~ (A)(2) OF THIS SECTION IF:

3 (1) THE GIFT CARD IS A CHIP-ENABLED, NUMBERLESS CARD THAT IS
 4 ACTIVATED BY A CONSUMER AFTER REGISTERING THE CARD ON THE CARD ISSUER'S
 5 WEBSITE; OR

6 (2) THE GIFT CARD:

7 (I) IS SOLD EXCLUSIVELY BY:

8 1. A MERCHANT FOR USE ONLY AT THE RETAIL
 9 ESTABLISHMENT OF THE MERCHANT; OR

10 2. A GROUP OF AFFILIATED MERCHANTS FOR USE ONLY
 11 AT THE RETAIL ESTABLISHMENTS OF THE AFFILIATED MERCHANTS; AND

12 (II) IS SECURED IN A PHYSICAL LOCATION WITHIN THE
 13 MERCHANT'S RETAIL ESTABLISHMENT THAT IS ACCESSIBLE ONLY BY AN EMPLOYEE
 14 OF THE MERCHANT.

15 ~~14-4604, 14-4603.~~

16 A MERCHANT THAT DISPLAYS ~~A AN OPEN-LOOP~~ GIFT CARD FOR SALE AT A RETAIL
 17 ESTABLISHMENT SHALL PROVIDE TRAINING TO ~~THE~~ ALL EMPLOYEES OF THE MERCHANT WHOSE
 18 DUTIES REGULARLY INCLUDE THE SALE OF OPEN-LOOP GIFT CARDS TO CONSUMERS
 19 ON HOW TO IDENTIFY AND RESPOND TO GIFT CARD FRAUD IN ACCORDANCE WITH
 THE GUIDELINES ESTABLISHED UNDER ~~§ 14-4605(2)~~ § 14-4604(2) OF THIS SUBTITLE.

20 ~~14-4605, 14-4604.~~

21 THE DIVISION SHALL:

22 (1) CREATE A MODEL NOTICE REGARDING OPEN-LOOP GIFT CARDS FOR USE BY MERCHANTS
 23 THAT:

24 (I) CAUTIONS A CONSUMER ABOUT GIFT CARD SCAMS;

25 (II) INSTRUCTS A CONSUMER ON WHAT TO DO IF THE
 26 CONSUMER SUSPECTS THE CONSUMER MAY BE A VICTIM OF A GIFT CARD SCAM; AND

27 (III) INDICATES A GIFT CARD MAY NOT BE USED TO PAY DEBT;

(2) ISSUE GUIDELINES REGARDING THE DETECTION AND

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1 PREVENTION OF OPEN-LOOP GIFT CARD FRAUD THAT INCLUDE:

2 (I) INFORMATION THAT RAISES PUBLIC AWARENESS ABOUT
3 GIFT CARD FRAUD;

4 (II) INFORMATION ABOUT HOW COMMON GIFT CARD FRAUD
5 SCHEMES WORK; AND

6 (III) BEST PRACTICES FOR A MERCHANT TO PREVENT GIFT CARD
7 FRAUD; AND

8 (3) MAKE AVAILABLE ONLINE AND PERIODICALLY UPDATE THE
9 MODEL NOTICE AND GUIDELINES REQUIRED UNDER THIS SECTION.

14-4605.

(A) THIS SECTION APPLIES ONLY TO THIRD-PARTY GIFT CARD
RESELLERS.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, WHEN A THIRD-PARTY
GIFT CARD RESELLER BUYS OR SELLS AN OPEN-LOOP GIFT CARD AS PART OF A TRANSACTION
OCCURRING IN THE STATE, THE THIRD-PARTY GIFT CARD RESELLER SHALL RECORD AND FOR AT
LEAST 3 YEARS MAINTAIN A COPY OF THE FOLLOWING INFORMATION, AS APPLICABLE:

(1) THE DATE OF THE TRANSACTION;

(2) THE NAME OF THE PERSON WHO CONDUCTED THE
TRANSACTION;

(3) THE NAME, AGE, AND ADDRESS OF THE SELLER OF THE GIFT
CARD;

(4) THE SELLER'S AND CONSUMER'S DRIVER'S LICENSE NUMBER OR
IDENTIFICATION CARD NUMBER;

(5) A DESCRIPTION OF THE PURCHASED GIFT CARD, INCLUDING:

(I) THE RETAILER FOR WHICH THE GIFT CARD IS INTENDED FOR USE;
AND

(II) THE GIFT CARD NUMBER;

(6) THE SPECIFIC AMOUNT ISSUED ON THE GIFT CARD;

(7) THE PRICES PAID TO CONDUCT THE TRANSACTION; AND

(8) THE SIGNATURE OF THE CONSUMER.

(C) (1) THE INFORMATION RECORDED AND MAINTAINED
UNDER SUBSECTION (B) OF THIS SECTION SHALL CHRONOLOGICALLY BE WRITTEN IN INK OR
LOGGED INTO A SECURE DATABASE, SOFTWARE SYSTEM, OR OTHER SIMILAR TECHNOLOGY
PLATFORM.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,
RECORDED INFORMATION MAY NOT BE DESTROYED, ALTERED, OR ERASED.

(3) A HANDWRITTEN CORRECTION MAY BE MADE TO AN ENTRY OF
INFORMATION BY DRAWING A LINE OF INK THROUGH THE ENTRY IN A MANNER THAT RETAINS
LEGIBILITY.

(4) INFORMATION RECORDED UNDER THIS SECTION SHALL BE OPEN TO

INSPECTION BY ANY DULY AUTHORIZED LAW ENFORCEMENT OFFICER:

(I) DURING THE ORDINARY BUSINESS HOURS OF THE THIRD-PARTY GIFT CARD RESELLER; OR

(II) AT ANY REASONABLE TIME.

(D) A THIRD-PARTY GIFT CARD RESELLER, INCLUDING AN AGENT OR EMPLOYEE OF THE THIRD-PARTY GIFT CARD RESELLER, MAY NOT:

(1) FAIL TO MAKE AN ENTRY OF OR FALSIFY, DESTROY, OR REMOVE ANY INFORMATION REQUIRED TO BE RECORDED AND MAINTAINED UNDER THIS SECTION;

(2) REFUSE TO ALLOW ANY DULY AUTHORIZED LAW ENFORCEMENT OFFICER TO INSPECT A RECORD OF INFORMATION OR OPEN-LOOP GIFT CARDS IN THE THIRD-PARTY GIFT CARD RESELLER'S POSSESSION DURING THE ORDINARY BUSINESS HOURS OF THE RESELLER OR AT ANY REASONABLE TIME; OR

(3) FAIL TO MAINTAIN A RECORD OF EACH OPEN-LOOP GIFT CARD TRANSACTION FOR AT LEAST 3 YEARS.

(E) ON THE FILING OF AN OFFICIAL REPORT WITH A LAW ENFORCEMENT AGENCY BY ANY PERSON ALLEGING TO BE A VICTIM OF THEFT OF ONE OR MORE OPEN-LOOP GIFT CARDS WITH AN AGGREGATE VALUE EXCEEDING \$500, THE LAW ENFORCEMENT AGENCY MAY REQUEST THAT THE ISSUER OF THE GIFT CARDS OR THE ISSUER'S AGENTS PRESERVE AND PROVIDE TO THE LAW ENFORCEMENT AGENCY ALL RELEVANT EVIDENCE REASONABLY FORESEEABLE AS OF ASSISTANCE TO FUTURE CRIMINAL ACTIONS IN ACCORDANCE WITH STATE LAW.

10 14-4606.

11 ~~A~~ (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A VIOLATION OF THIS SUBTITLE IS:

12 (1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN
13 THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

14 (2) SUBJECT TO THE PENALTY AND ENFORCEMENT PROVISIONS
15 CONTAINED IN TITLE 13 OF THIS ARTICLE.

(B) EXCEPT FOR AN ACTION BROUGHT UNDER § 13-408 OF THIS ARTICLE, A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A WARNING FOR A FIRST VIOLATION.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Commercial Law

14-4601.

(a) In this subtitle the following words have the meanings indicated.

(B) "CLOSED-LOOP GIFT CARD" MEANS A CARD, CODE, OR DEVICE THAT IS:

(1) ISSUED TO A CONSUMER ON A PREPAID BASIS PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES IN A SPECIFIED AMOUNT, REGARDLESS OF WHETHER THAT AMOUNT MAY BE INCREASED OR RELOADED IN EXCHANGE FOR PAYMENT; AND

(2) REDEEMABLE ON PRESENTATION BY A CONSUMER AT A SINGLE MERCHANT OR A GROUP OF AFFILIATED MERCHANTS.

[(b)] (C) "Division" has the meaning stated in § 13-101 of this article.

[(c)] (D) "Merchant" has the meaning stated in § 13-101 of this article.

[(d)] (E) "Open-loop gift card" means a card, code, or device that is:

(1) Issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment;

(2) Is payment card network branded; and

(3) (i) Redeemable on presentation at multiple unaffiliated merchants for goods or services within the payment card network; or

(ii) Usable at an automated teller machine.

[(e)] (F) "Third-party gift card reseller" means a merchant who, without authorization from or affiliation with the business entity issuing an [open-loop] OPEN- OR A CLOSED-LOOP gift card, is engaged in the business of:

(1) Buying [open-loop] OPEN- OR CLOSED-LOOP gift cards on behalf of consumers; or

(2) Reselling [open-loop] OPEN- OR CLOSED-LOOP gift cards to consumers.

14-4602.

(a) Except as provided in subsection (b) of this section, a merchant may not knowingly sell an [open-loop] OPEN- OR A CLOSED-LOOP gift card to a consumer unless:

(1) The merchant conspicuously displays a notice in substantially the same form as the model notice created under § 14-4604(1) of this subtitle:

(i) For an in-person sale, at or near the physical location where:

1. The gift card is displayed for sale; or

2. The sale occurs; or

(ii) For an online sale, on the webpage:

1. Where the gift card is offered for sale; or

2. That is displayed before the sale is finalized;

[and]

(2) For an in-person sale of an open-loop gift card, the gift card is enclosed in secure packaging that:

(i) Is sealed in a manner that is not easily opened without signs of tampering and conceals all numeric codes specific to the activation or redemption of the gift card, including any bar code, CVV number, PIN number, or activation code; and

(ii) Includes a warning that states the following or uses language substantially similar to the following:

"Do not sell or purchase if packaging has been broken or indicates tampering";AND

(3) FOR AN IN-PERSON SALE OF A CLOSED-LOOP GIFT CARD, THE GIFT CARD IS PRESENTED IN PACKAGING THAT:

(I) IN A MANNER THAT IS NOT EASILY REMOVED OR REPLACED

WITHOUT SIGNS OF TAMPERING, CONCEALS OR COVERS ALL NUMERIC CODES SPECIFIC TO THE REDEMPTION OF THE GIFT CARD; AND

(II) INCLUDES A WARNING THAT STATES THE FOLLOWING OR USES LANGUAGE SUBSTANTIALLY SIMILAR TO THE FOLLOWING:

"DO NOT SELL OR PURCHASE IF PACKAGING HAS BEEN BROKEN OR INDICATESTAMPERING."

(b) A merchant may sell an [open-loop] OPEN- OR A CLOSED-LOOP gift card that is not enclosed in secure packaging as required under subsection (a)(2) of this section if:

(1) The gift card is a chip-enabled, numberless card that is activated by a consumer after registering the card on the card issuer's website; or

(2) The gift card:

(i) Is sold exclusively by:

1. A merchant for use only at the retail establishment of the merchant; or

2. A group of affiliated merchants for use only at the retail establishments of the affiliated merchants; and

(ii) Is secured in a physical location within the merchant's retail establishment that is accessible only by an employee of the merchant.

14-4603.

A merchant that displays an [open-loop] OPEN- OR A CLOSED-LOOP gift card for sale at a retail establishment shall provide training to all employees of the merchant whose duties regularly include the sale of [open-loop] OPEN- OR CLOSED-LOOP gift cards to consumers on how to identify and respond to gift card fraud in accordance with the guidelines established under § 14-4604(2) of this subtitle.

14-4604.

The Division shall:

(1) Create a model notice regarding [open-loop] OPEN- AND CLOSED-LOOP gift cards for use by merchants that:

(i) Cautions a consumer about gift card scams;

(ii) Instructs a consumer on what to do if the consumer suspects the consumer may be a victim of a gift card scam; and

(iii) Indicates a gift card may not be used to pay debt;

(2) Issue guidelines regarding the detection and prevention of [open-loop] OPEN- AND CLOSED-LOOP gift card fraud that include:

(i) Information that raises public awareness about gift card fraud;

(ii) Information about how common gift card fraud schemes work; and

(iii) Best practices for a merchant to prevent gift card fraud; and

(3) Make available online and periodically update the model notice and guidelines required under this section.

14-4605.

(a) This section applies only to third-party gift card resellers.

(b) Subject to subsection (c) of this section, when a third-party gift card reseller buys or sells an [open-loop] OPEN- OR A CLOSED-LOOP gift card as part of a transaction occurring in the State, the third-party gift card reseller shall record and for at least 3 years maintain a copy of the following information, as applicable:

- (1) The date of the transaction;
- (2) The name of the person who conducted the transaction;
- (3) The name, age, and address of the seller of the gift card;
- (4) The seller's and consumer's driver's license number or identification card number;
- (5) A description of the purchased gift card, including:
 - (i) The retailer for which the gift card is intended for use; and
 - (ii) The gift card number;
- (6) The specific amount issued on the gift card;
- (7) The prices paid to conduct the transaction; and
- (8) The signature of the consumer.

(c) (1) The information recorded and maintained under subsection (b) of this section shall chronologically be written in ink or logged into a secure database, software system, or other similar technology platform.

(2) Except as provided in paragraph (3) of this subsection, recorded information may not be destroyed, altered, or erased.

(3) A handwritten correction may be made to an entry of information by drawing a line of ink through the entry in a manner that retains legibility.

(4) Information recorded under this section shall be open to inspection by any duly authorized law enforcement officer:

- (i) During the ordinary business hours of the third-party gift card reseller; or
- (ii) At any reasonable time.

(d) A third-party gift card reseller, including an agent or employee of the third-party gift card reseller, may not:

(1) Fail to make an entry of or falsify, destroy, or remove any information required to be recorded and maintained under this section;

(2) Refuse to allow any duly authorized law enforcement officer to inspect a record of information or [open-loop] OPEN- OR CLOSED-LOOP gift cards in the third-party gift card reseller's possession during the ordinary business hours of the reseller or at any reasonable time; or

(3) Fail to maintain a record of each [open-loop] OPEN- OR CLOSED-LOOP gift card transaction for at least 3 years.

(e) On the filing of an official report to a law enforcement agency by any person alleging to be a victim of theft of one or more [open-loop] OPEN- OR CLOSED-LOOP gift cards with an aggregate value exceeding \$500, the law enforcement agency may request that the issuer of the gift cards or the issuer's agents preserve and provide to the law enforcement agency all relevant evidence reasonably foreseeable as of assistance to future criminal actions in accordance with State law.

17 October 1, ~~2024~~ 2025.

SECTION 4. AND BE IT FURTHER ENACTED. That, except as provided in Section 3 of this Act, this Act shall take effect June 1, 2025.

SB760_SponsorAmendments

Uploaded by: Senator Kramer

Position: FWA



SB0760/113226/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

28 FEB 24
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BY: Senator Kramer
(To be offered in the Finance Committee)

AMENDMENTS TO SENATE BILL 760
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “requiring” in line 4 down through “registration;” in line 7; in line 7, after the second “a” insert “certain open– or closed– loop”; and in line 11, after “fraud;” insert “requiring a certain third–party gift card reseller to record and maintain a copy of certain information for a certain period of time; authorizing a law enforcement agency to request an issuer of gift cards or an issuer’s agent to provide to the law enforcement agency certain evidence reasonably foreseeable to assist in future criminal actions under certain circumstances;”.

On page 2, after line 2, insert:

“BY repealing and reenacting, with amendments,

Article - Commercial Law

Section 14–4601 through 14–4605

Annotated Code of Maryland

(2013 Replacement Volume and 2023 Supplement)

(As enacted by Section 1 of this Act)”.

AMENDMENT NO. 2

On page 2, strike beginning with “(C)” in line 17 down through “(D)” in line 24 and substitute “(C)”; and after line 24, insert:

“(D) “OPEN–LOOP GIFT CARD” MEANS A CARD, CODE, OR DEVICE THAT IS:

(1) ISSUED TO A CONSUMER ON A PREPAID BASIS PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES IN A SPECIFIED AMOUNT,

REGARDLESS OF WHETHER THAT AMOUNT MAY BE INCREASED OR RELOADED IN EXCHANGE FOR PAYMENT;

(2) IS PAYMENT CARD NETWORK BRANDED; AND

(3) (I) REDEEMABLE ON PRESENTATION AT MULTIPLE UNAFFILIATED MERCHANTS FOR GOODS OR SERVICES WITHIN THE PAYMENT CARD NETWORK; OR

(II) USABLE AT AN AUTOMATED TELLER MACHINE.

(E) “THIRD-PARTY GIFT CARD RESELLER” MEANS A MERCHANT WHO, WITHOUT AUTHORIZATION FROM OR AFFILIATION WITH THE BUSINESS ENTITY ISSUING AN OPEN-LOOP GIFT CARD, IS ENGAGED IN THE BUSINESS OF:

(1) BUYING OPEN-LOOP GIFT CARDS ON BEHALF OF CONSUMERS;
OR

(2) RESELLING OPEN-LOOP GIFT CARDS TO CONSUMERS.”.

On pages 2 and 3, strike in their entirety the lines beginning with line 26 on page 2 through line 7 on page 3, inclusive.

On page 3, in line 9, after “NOT” insert “KNOWINGLY”; in the same line, strike the first “A” and substitute “AN OPEN-LOOP”; strike beginning with “FOR” in line 10 down through “(2)” in line 12; in lines 13 and 14, strike “§ 14-4605(1)” and substitute “§ 14-4604(1)”; in line 22, strike “(3)” and substitute “(2)”; strike beginning with the colon in line 15 down through “AT” in line 16 and substitute “,AT”; in line 16, strike the second “THE” and substitute “:

1. THE;

in line 18, strike “AT OR NEAR THE PHYSICAL LOCATION WHERE THE” and substitute “**THE**”; in line 20, strike “THAT DISPLAYS” and substitute “:

1. WHERE THE GIFT CARD IS OFFERED FOR SALE; OR

2. THAT IS DISPLAYED”;

in line 21, strike “IMMEDIATELY”; in line 22, after “SALE” insert “**OF AN OPEN-LOOP GIFT CARD**”; in line 26, after “THE” insert “**ACTIVATION OR THE REDEMPTION OF THE**”; in line 28, after “FOLLOWING” insert “**OR USES LANGUAGE SUBSTANTIALLY SIMILAR TO THE FOLLOWING**”; and in line 29, after “SELL” insert “**OR PURCHASE**”.

On page 4, in line 1, strike “A” and substitute “**AN OPEN-LOOP**”; in line 2, strike “(A)(3)” and substitute “(A)(2)”; in lines 15 and 20, strike “14-4604.” and “14-4605.”, respectively, and substitute “**14-4603.**” and “**14-4604.**”, respectively; in line 16, strike the first “A” and substitute “**AN OPEN-LOOP**”; in line 17, strike the first “THE” and substitute “**ALL**”; in the same line, after “MERCHANT” insert “**WHOSE DUTIES REGULARLY INCLUDE THE SALE OF OPEN-LOOP GIFT CARDS TO CONSUMERS**”; in line 19, strike “§ 14-4605(2)” and substitute “**§ 14-4604(2)**”; and in line 22, after “NOTICE” insert “**REGARDING OPEN-LOOP GIFT CARDS**”.

On page 5, in line 1, after “OF” insert “**OPEN-LOOP**”; after line 9, insert:

“14-4605.

(A) THIS SECTION APPLIES ONLY TO THIRD-PARTY GIFT CARD RESELLERS.

(Over)

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, WHEN A THIRD-PARTY GIFT CARD RESELLER BUYS OR SELLS AN OPEN-LOOP GIFT CARD AS PART OF A TRANSACTION OCCURRING IN THE STATE, THE THIRD-PARTY GIFT CARD RESELLER SHALL RECORD AND FOR AT LEAST 3 YEARS MAINTAIN A COPY OF THE FOLLOWING INFORMATION, AS APPLICABLE:

- (1) THE DATE OF THE TRANSACTION;**
- (2) THE NAME OF THE PERSON WHO CONDUCTED THE TRANSACTION;**
- (3) THE NAME, AGE, AND ADDRESS OF THE SELLER OF THE GIFT CARD;**
- (4) THE SELLER'S AND CONSUMER'S DRIVER'S LICENSE NUMBER OR IDENTIFICATION CARD NUMBER;**
- (5) A DESCRIPTION OF THE PURCHASED GIFT CARD, INCLUDING:**
 - (i) THE RETAILER FOR WHICH THE GIFT CARD IS INTENDED FOR USE; AND**
 - (ii) THE GIFT CARD NUMBER;**
- (6) THE SPECIFIC AMOUNT ISSUED ON THE GIFT CARD;**
- (7) THE PRICES PAID TO CONDUCT THE TRANSACTION; AND**
- (8) THE SIGNATURE OF THE CONSUMER.**

(C) (1) THE INFORMATION RECORDED AND MAINTAINED UNDER SUBSECTION (B) OF THIS SECTION SHALL CHRONOLOGICALLY BE WRITTEN IN INK OR LOGGED INTO A SECURE DATABASE, SOFTWARE SYSTEM, OR OTHER SIMILAR TECHNOLOGY PLATFORM.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, RECORDED INFORMATION MAY NOT BE DESTROYED, ALTERED, OR ERASED.

(3) A HANDWRITTEN CORRECTION MAY BE MADE TO AN ENTRY OF INFORMATION BY DRAWING A LINE OF INK THROUGH THE ENTRY IN A MANNER THAT RETAINS LEGIBILITY.

(4) INFORMATION RECORDED UNDER THIS SECTION SHALL BE OPEN TO INSPECTION BY ANY DULY AUTHORIZED LAW ENFORCEMENT OFFICER:

(I) DURING THE ORDINARY BUSINESS HOURS OF THE THIRD-PARTY GIFT CARD RESELLER; OR

(II) AT ANY REASONABLE TIME.

(D) A THIRD-PARTY GIFT CARD RESELLER, INCLUDING AN AGENT OR EMPLOYEE OF THE THIRD-PARTY GIFT CARD RESELLER, MAY NOT:

(1) FAIL TO MAKE AN ENTRY OF OR FALSIFY, DESTROY, OR REMOVE ANY INFORMATION REQUIRED TO BE RECORDED AND MAINTAINED UNDER THIS SECTION;

(2) REFUSE TO ALLOW ANY DULY AUTHORIZED LAW ENFORCEMENT OFFICER TO INSPECT A RECORD OF INFORMATION OR OPEN-LOOP GIFT CARDS IN THE THIRD-PARTY GIFT CARD RESELLER'S POSSESSION DURING THE ORDINARY BUSINESS HOURS OF THE RESELLER OR AT ANY REASONABLE TIME; OR

(3) FAIL TO MAINTAIN A RECORD OF EACH OPEN-LOOP GIFT CARD TRANSACTION FOR AT LEAST 3 YEARS.

(E) ON THE FILING OF AN OFFICIAL REPORT WITH A LAW ENFORCEMENT AGENCY BY ANY PERSON ALLEGING TO BE A VICTIM OF THEFT OF ONE OR MORE OPEN-LOOP GIFT CARDS WITH AN AGGREGATE VALUE EXCEEDING \$500, THE LAW ENFORCEMENT AGENCY MAY REQUEST THAT THE ISSUER OF THE GIFT CARDS OR THE ISSUER'S AGENTS PRESERVE AND PROVIDE TO THE LAW ENFORCEMENT AGENCY ALL RELEVANT EVIDENCE REASONABLY FORESEEABLE AS OF ASSISTANCE TO FUTURE CRIMINAL ACTIONS IN ACCORDANCE WITH STATE LAW.”;

in line 11, strike “A” and substitute “(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A”; after line 15, insert:

“(B) EXCEPT FOR AN ACTION BROUGHT UNDER § 13-408 OF THIS ARTICLE, A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A WARNING FOR A FIRST VIOLATION.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Commercial Law

14-4601.

(a) In this subtitle the following words have the meanings indicated.

(B) “CLOSED-LOOP GIFT CARD” MEANS A CARD, CODE, OR DEVICE THAT IS:

(1) ISSUED TO A CONSUMER ON A PREPAID BASIS PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES IN A SPECIFIED AMOUNT, REGARDLESS OF WHETHER THAT AMOUNT MAY BE INCREASED OR RELOADED IN EXCHANGE FOR PAYMENT; AND

(2) REDEEMABLE ON PRESENTATION BY A CONSUMER AT A SINGLE MERCHANT OR A GROUP OF AFFILIATED MERCHANTS.

[(b)] (C) “Division” has the meaning stated in § 13-101 of this article.

[(c)] (D) “Merchant” has the meaning stated in § 13-101 of this article.

[(d)] (E) “Open-loop gift card” means a card, code, or device that is:

(1) Issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment;

(2) Is payment card network branded; and

(3) (i) Redeemable on presentation at multiple unaffiliated merchants for goods or services within the payment card network; or

(ii) Usable at an automated teller machine.

[(e)] (F) “Third-party gift card reseller” means a merchant who, without authorization from or affiliation with the business entity issuing an [open-loop] OPEN- OR A CLOSED-LOOP gift card, is engaged in the business of:

(1) Buying [open-loop] OPEN- OR CLOSED-LOOP gift cards on behalf of consumers; or

(2) Reselling [open-loop] OPEN- OR CLOSED-LOOP gift cards to consumers.

14-4602.

(a) Except as provided in subsection (b) of this section, a merchant may not knowingly sell an [open-loop] OPEN- OR A CLOSED-LOOP gift card to a consumer unless:

(1) The merchant conspicuously displays a notice in substantially the same form as the model notice created under § 14-4604(1) of this subtitle:

(i) For an in-person sale, at or near the physical location where:

1. The gift card is displayed for sale; or

2. The sale occurs; or

(ii) For an online sale, on the webpage:

1. Where the gift card is offered for sale; or

2. That is displayed before the sale is finalized; [and]

(2) For an in-person sale of an open-loop gift card, the gift card is enclosed in secure packaging that:

(i) Is sealed in a manner that is not easily opened without signs of tampering and conceals all numeric codes specific to the activation or redemption of the gift card, including any bar code, CVV number, PIN number, or activation code; and

(ii) Includes a warning that states the following or uses language substantially similar to the following:

“Do not sell or purchase if packaging has been broken or indicates tampering”; AND

(3) FOR AN IN-PERSON SALE OF A CLOSED-LOOP GIFT CARD, THE GIFT CARD IS PRESENTED IN PACKAGING THAT:

(I) IN A MANNER THAT IS NOT EASILY REMOVED OR REPLACED WITHOUT SIGNS OF TAMPERING, CONCEALS OR COVERS ALL NUMERIC CODES SPECIFIC TO THE REDEMPTION OF THE GIFT CARD; AND

(II) INCLUDES A WARNING THAT STATES THE FOLLOWING OR USES LANGUAGE SUBSTANTIALLY SIMILAR TO THE FOLLOWING:

“DO NOT SELL OR PURCHASE IF PACKAGING HAS BEEN BROKEN OR INDICATES TAMPERING.”.

(b) A merchant may sell an [open-loop] OPEN- OR A CLOSED-LOOP gift card that is not enclosed in secure packaging as required under subsection (a)(2) of this section if:

(1) The gift card is a chip-enabled, numberless card that is activated by a consumer after registering the card on the card issuer’s website; or

(Over)

(2) The gift card:

(i) Is sold exclusively by:

1. A merchant for use only at the retail establishment of the merchant; or

2. A group of affiliated merchants for use only at the retail establishments of the affiliated merchants; and

(ii) Is secured in a physical location within the merchant's retail establishment that is accessible only by an employee of the merchant.

14-4603.

A merchant that displays an [open-loop] OPEN- OR A CLOSED-LOOP gift card for sale at a retail establishment shall provide training to all employees of the merchant whose duties regularly include the sale of [open-loop] OPEN- OR CLOSED-LOOP gift cards to consumers on how to identify and respond to gift card fraud in accordance with the guidelines established under § 14-4604(2) of this subtitle.

14-4604.

The Division shall:

(1) Create a model notice regarding [open-loop] OPEN- AND CLOSED-LOOP gift cards for use by merchants that:

(i) Cautions a consumer about gift card scams;

(ii) Instructs a consumer on what to do if the consumer suspects the consumer may be a victim of a gift card scam; and

(iii) Indicates a gift card may not be used to pay debt;

(2) Issue guidelines regarding the detection and prevention of [open-loop] OPEN- AND CLOSED-LOOP gift card fraud that include:

(i) Information that raises public awareness about gift card fraud;

(ii) Information about how common gift card fraud schemes work; and

(iii) Best practices for a merchant to prevent gift card fraud; and

(3) Make available online and periodically update the model notice and guidelines required under this section.

14-4605.

(a) This section applies only to third-party gift card resellers.

(b) Subject to subsection (c) of this section, when a third-party gift card reseller buys or sells an [open-loop] OPEN- OR A CLOSED-LOOP gift card as part of a transaction occurring in the State, the third-party gift card reseller shall record and for at least 3 years maintain a copy of the following information, as applicable:

(1) The date of the transaction;

(2) The name of the person who conducted the transaction;

(Over)

- (3) The name, age, and address of the seller of the gift card;
 - (4) The seller's and consumer's driver's license number or identification card number;
 - (5) A description of the purchased gift card, including:
 - (i) The retailer for which the gift card is intended for use; and
 - (ii) The gift card number;
 - (6) The specific amount issued on the gift card;
 - (7) The prices paid to conduct the transaction; and
 - (8) The signature of the consumer.
- (c) (1) The information recorded and maintained under subsection (b) of this section shall chronologically be written in ink or logged into a secure database, software system, or other similar technology platform.
- (2) Except as provided in paragraph (3) of this subsection, recorded information may not be destroyed, altered, or erased.
- (3) A handwritten correction may be made to an entry of information by drawing a line of ink through the entry in a manner that retains legibility.
- (4) Information recorded under this section shall be open to inspection by any duly authorized law enforcement officer:
- (i) During the ordinary business hours of the third-party gift card reseller; or

(ii) At any reasonable time.

(d) A third-party gift card reseller, including an agent or employee of the third-party gift card reseller, may not:

(1) Fail to make an entry of or falsify, destroy, or remove any information required to be recorded and maintained under this section;

(2) Refuse to allow any duly authorized law enforcement officer to inspect a record of information or ~~[open-loop]~~ **OPEN- OR CLOSED-LOOP** gift cards in the third-party gift card reseller's possession during the ordinary business hours of the reseller or at any reasonable time; or

(3) Fail to maintain a record of each ~~[open-loop]~~ **OPEN- OR CLOSED-LOOP** gift card transaction for at least 3 years.

(e) On the filing of an official report to a law enforcement agency by any person alleging to be a victim of theft of one or more ~~[open-loop]~~ **OPEN- OR CLOSED-LOOP** gift cards with an aggregate value exceeding \$500, the law enforcement agency may request that the issuer of the gift cards or the issuer's agents preserve and provide to the law enforcement agency all relevant evidence reasonably foreseeable as of assistance to future criminal actions in accordance with State law.”;

in line 16, strike “2.” and substitute “3.”; in the same line, after “That” insert “Section 2 of”; in line 17, strike “2024” and substitute “2025”; and after line 17, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect June 1, 2025.”.

SB 760 Support with Amendments.docx.pdf

Uploaded by: Steven M. Sakamoto-Wengel

Position: FWA

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February 28, 2024

To: The Honorable Pamela Beidle
Chair, Finance Committee

From: Karen S. Straughn, Assistant Attorney General
Steven M. Sakamoto-Wengel, Consumer Protection Counsel for Regulation, Legislation
and Policy
Consumer Protection Division

Re: Senate Bill 760 – Consumer Protection – Retail Sales of Gift Cards (Gift Card Scams
Prevention Act of 2024) (Support with Amendments)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support, with amendments, of Senate Bill 760 submitted by Senator Benjamin F. Kramer. The bill would require businesses that sell gift cards to provide a disclosure to purchasers prepared by the Division and would further require the merchant to provide training on gift card fraud to its employees. The bill would also require protections to prevent tampering with gift cards that are held for sale. Finally, it would require the Consumer Protection Division to register every merchant in the state that sells gift cards online. Because we do not feel that registering those merchants adds to the protections in the bill, and because it would be expensive for the Division to implement, we seek an amendment to remove this requirement under the bill.

Gift cards are an extremely popular form of currency. They can be a good substitute form of payment if you'd rather not pay cash or use a credit card and can make good gifts for holidays or special occasions. Although there are good uses for gift cards, scammers frequently request that their victims provide payment in the form of gift cards. However, unlike credit cards, there typically isn't any recourse for consumers when a gift card is stolen or used without

authorization or as payment to a scam artist, so it is very hard to reverse the purchases or get a refund in these situations.

This bill helps to ensure that gift cards are kept in secure packaging or are relatively inaccessible prior to purchase to prevent theft and misuse. In addition, it requires disclosures that will help to better educate consumers about possible scams involving gift cards, as well as training of employees to recognize signs of a scam, which should reduce the number of successful scams.

This bill also requires the Consumer Protection Division to register every merchant that sells gift cards online, a formidable task at best. Not only would this require a large number of resources to identify and register every merchant who sells gift cards, which would likely number in the thousands if not tens of thousands, it would not be likely to prevent scams from occurring. Although the bill provides that the Division may charge a registration fee, it is unlikely that the Division could set the fee high enough to cover the expenses of administering the registration program.

For these reasons, we ask that the Finance Committee return a favorable report with an amendment removing the requirement of the Consumer Protection Division to register all merchants that sell gift cards online in the State.

cc: The Honorable Benjamin F. Kramer
Members, Finance Committee