

SENATE BILL 760

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4lr2024
CF HB 896

By: **Senator Kramer**

Introduced and read first time: February 1, 2024

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2024

CHAPTER _____

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
8 card to a consumer unless the merchant meets certain requirements; requiring a
9 merchant that displays a gift card for sale at a retail establishment to provide certain
10 training to the employees of the merchant regarding gift card fraud; requiring the
11 Division to create a certain model notice and issue certain guidelines regarding gift
12 card fraud; requiring a certain third–party gift card reseller to record and maintain
13 a copy of certain information for a certain period of time; authorizing a law
14 enforcement agency to request an issuer of gift cards or an issuer’s agent to provide
15 to the law enforcement agency certain evidence reasonably foreseeable to assist in
16 future criminal actions under certain circumstances; making a violation of this Act
17 an unfair, abusive, or deceptive trade practice that is subject to enforcement and
18 penalties under the Maryland Consumer Protection Act; and generally relating to
19 the sale of gift cards and preventing gift card fraud.

20 BY repealing and reenacting, with amendments,
21 Article – Commercial Law
22 Section 13–301(14)(xl)
23 Annotated Code of Maryland
24 (2013 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



- 1 BY repealing and reenacting, without amendments,
 2 Article – Commercial Law
 3 Section 13–301(14)(xli)
 4 Annotated Code of Maryland
 5 (2013 Replacement Volume and 2023 Supplement)
- 6 BY adding to
 7 Article – Commercial Law
 8 Section 13–301(14)(xlii); and 14–4601 through 14–4606 to be under the new subtitle
 9 “Subtitle 46. Gift Card Fraud”
 10 Annotated Code of Maryland
 11 (2013 Replacement Volume and 2023 Supplement)
- 12 BY repealing and reenacting, with amendments,
 13 Article – Commercial Law
 14 Section 14–4601 through 14–4605
 15 Annotated Code of Maryland
 16 (2013 Replacement Volume and 2023 Supplement)
 17 (As enacted by Section 1 of this Act)

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

20 **Article – Commercial Law**

21 13–301.

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

23 (14) Violation of a provision of:

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

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

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

27 **SUBTITLE 46. GIFT CARD FRAUD.**

28 14–4601.

29 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 30 INDICATED.

31 (B) “DIVISION” HAS THE MEANING STATED IN § 13–101 OF THIS ARTICLE.

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

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

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

8 ~~(D)~~ (C) "MERCHAND" HAS THE MEANING STATED IN § 13-101 OF THIS
9 ARTICLE.

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

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

15 (2) IS PAYMENT CARD NETWORK BRANDED; AND

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

19 (II) IS USABLE AT AN AUTOMATED TELLER MACHINE.

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

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

24 (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~~
28 ~~CARDS.~~

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

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

6 ~~14-4603.~~

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

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

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

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

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

23 2. THAT IS DISPLAYED IMMEDIATELY BEFORE THE SALE
 24 IS FINALIZED; AND

25 ~~(3)~~ (2) FOR AN IN-PERSON SALE OF AN OPEN-LOOP GIFT CARD,
 26 THE GIFT CARD IS ENCLOSED IN SECURE PACKAGING THAT:

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

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

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

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

8 (1) THE GIFT CARD IS A CHIP-ENABLED, NUMBERLESS CARD THAT IS
9 ACTIVATED BY A CONSUMER AFTER REGISTERING THE CARD ON THE CARD ISSUER’S
10 WEBSITE; OR

11 (2) THE GIFT CARD:

12 (I) IS SOLD EXCLUSIVELY BY:

13 1. A MERCHANT FOR USE ONLY AT THE RETAIL
14 ESTABLISHMENT OF THE MERCHANT; OR

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

17 (II) IS SECURED IN A PHYSICAL LOCATION WITHIN THE
18 MERCHANT’S RETAIL ESTABLISHMENT THAT IS ACCESSIBLE ONLY BY AN EMPLOYEE
19 OF THE MERCHANT.

20 ~~14-4604.~~ 14-4603.

21 A MERCHANT THAT DISPLAYS ~~A~~ AN OPEN-LOOP GIFT CARD FOR SALE AT A
22 RETAIL ESTABLISHMENT SHALL PROVIDE TRAINING TO ~~THE~~ ALL EMPLOYEES OF
23 THE MERCHANT WHOSE DUTIES REGULARLY INCLUDE THE SALE OF OPEN-LOOP
24 GIFT CARDS TO CONSUMERS ON HOW TO IDENTIFY AND RESPOND TO GIFT CARD
25 FRAUD IN ACCORDANCE WITH THE GUIDELINES ESTABLISHED UNDER ~~§ 14-4605(2)~~
26 § 14-4604(2) OF THIS SUBTITLE.

27 ~~14-4605.~~ 14-4604.

28 THE DIVISION SHALL:

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

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

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

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

5 (2) ISSUE GUIDELINES REGARDING THE DETECTION AND
6 PREVENTION OF OPEN-LOOP GIFT CARD FRAUD THAT INCLUDE:

7 (I) INFORMATION THAT RAISES PUBLIC AWARENESS ABOUT
8 GIFT CARD FRAUD;

9 (II) INFORMATION ABOUT HOW COMMON GIFT CARD FRAUD
10 SCHEMES WORK; AND

11 (III) BEST PRACTICES FOR A MERCHANT TO PREVENT GIFT CARD
12 FRAUD; AND

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

15 14-4605.

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

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

22 (1) THE DATE OF THE TRANSACTION;

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

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

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

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

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

3 **(II) THE GIFT CARD NUMBER;**

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

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

6 **(8) THE SIGNATURE OF THE CONSUMER.**

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

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

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

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

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

20 **(II) AT ANY REASONABLE TIME.**

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

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

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

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

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

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

6 (2) Is payment card network branded; and

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

9 (ii) Is usable at an automated teller machine.

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

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

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

17 14–4602.

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

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

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

23 1. The gift card is displayed for sale; or

24 2. The sale occurs; or

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (2) The gift card:

24 (i) Is sold exclusively by:

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

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

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

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

6 14-4604.

7 The Division shall:

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

10 (i) Cautions a consumer about gift card scams;

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

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

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

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

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

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

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

22 14-4605.

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

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

28 (1) The date of the transaction;

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

1 (3) The name, age, and address of the seller of the gift card;

2 (4) The seller's and consumer's driver's license number or identification
3 card number;

4 (5) A description of the purchased gift card, including:

5 (i) The retailer for which the gift card is intended for use; and

6 (ii) The gift card number;

7 (6) The specific amount issued on the gift card;

8 (7) The prices paid to conduct the transaction; and

9 (8) The signature of the consumer.

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

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

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

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

19 (i) During the ordinary business hours of the third-party gift card
20 reseller; or

21 (ii) At any reasonable time.

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

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

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

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

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

9 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
10 take effect October 1, ~~2024~~ 2025.

11 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section
12 3 of this Act, this Act shall take effect June 1, 2025.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.