

GIFT CARDS & GIFT CERTIFICATES

Consumer Alert

In the news:

It is hard to understate the popularity of gift cards. As of 2015, more than 90% of Americans surveyed had purchased a gift card. And by 2018, the total volume of gift cards is projected to reach \$160 billion.

What you need to know:

State and federal consumer laws offer gift card consumers many protections, including required disclosures, limits on fees and expiration dates, and access to replacement cards. This Alert explains the different types of gift cards and the rules designed to protect consumers. It also provides guidelines for purchasing gift cards and tips for spotting and stopping different gift card scams.



Physical gift cards

People know these best. They are sometimes called “smart cards.” They are usually made of plastic or coated paper and carry a magnetic stripe or microprocessor that encodes the value.

Virtual gift cards

These are sent to a recipient in electronic form, (i.e., emailed or posted on social media) regardless of how they are redeemed (such as through paper printouts or a code entered on a website).

Mobile gift cards

These are sent to a recipient in electronic form and require a mobile device to redeem. These cards can be sent via an app, SMS message, or through the internet.



There are also two broad categories of gift cards:

Merchant-issued gift cards

Consumers who purchase merchant-issued gift cards indicate how much they want to spend and, in return, the merchant should disclose any applicable fees, charges, expiration dates, and other restrictions.

The gift recipient may then use the gift card toward purchases at that merchant or other participating merchants.

Some merchants place restrictions on use of the card—for instance, the card may only be used for online or in-store purchases.

Some gift cards have pins on the back of the card that should only be revealed by the purchaser or recipient when the card is redeemed.

Bank-issued gift cards

A gift card issued by a bank or other financial institution contains an identity symbol for a card network such as American Express, VISA, or MasterCard.

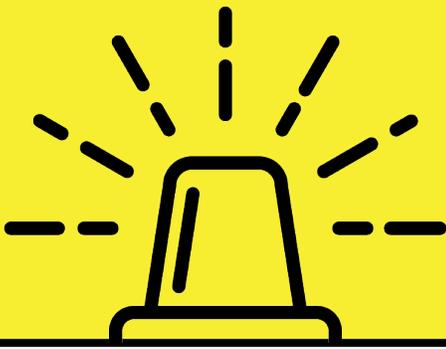
Usually these bank-issued cards can be used at any location accepting credit or debit cards from that network (i.e., locations accepting American Express, VISA, and/or MasterCard).

The banks that issue these cards are required to provide disclosures related to fees, charges, expiration dates, and other restrictions.

The [Office of the Comptroller of the Currency \(OCC\)](#) has [gift card disclosure guidelines](#) that national banks and federal savings associations must follow.

Bill Schuette
Attorney General





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Gift Certificates

Michigan law defines “gift certificate” to include not only a written promise representing the right of the person named on or holding it to present the certificate to the referenced merchant(s) for goods or services, but also includes a gift card or other electronic device that: is usable at a single retailer or affiliated group; is issued in a specified amount; may or may not be increased in value or reloaded; is purchased or loaded on a prepaid basis for the future purchase or delivery of goods or services; and is honored upon presentation.

It does not include a general use, prepaid card or other electronic device that is issued by a financial institution in a predetermined amount and is usable at multiple, unaffiliated retailers or at an automated teller machine. In other words, a reloadable prepaid card that is intended for use as a checking account substitute or cards that are given as a reward or as a promotion are not “gift certificates” or “gift cards” under Michigan law.

For purposes of this Alert, a “gift card” includes a “gift certificate” as defined by Michigan law.

Gift Card Buying Guidelines

1. **Read the fine print before buying.** Pay particular attention to the following considerations:

Purchase or use restrictions. Some merchants may only allow you to use the gift card at specific store locations. Others may allow you to use the card at different merchants or online. Some merchants have limited-use cards—for example, cards that can only be used to buy gas; or cards that cannot be used to buy alcohol or tobacco. Become familiar with restrictions *before* you buy a gift card.

Expiration dates. Like location restrictions, expiration dates on gift cards can create an unwanted hassle. Find out if a merchant or gift card issuer places expiration dates on their gift cards before you purchase. If there is an expiration date, reconsider whether purchasing a gift card from this particular merchant is worth potential future problems.

Even if there is no expiration date, encourage recipients to use the gift cards shortly after receiving them. After a few months, it is increasingly likely the certificate or card will be lost or forgotten!

All fees. Gift card fees are now limited and generally can be charged only if you haven’t used your card for at least one year. In addition, you may only be charged one fee per month whether that is a fee for not using the card, for adding money to your card, or any maintenance fee. Make sure you read the card disclosure carefully to know what fees your card issuer imposes.

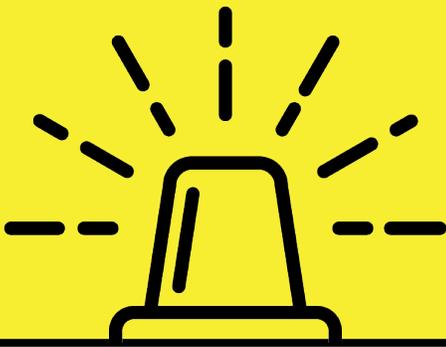
Replacement policy for lost or stolen cards. This is important information to know in the unfortunate event the card is lost or stolen.

2. **Purchase from only reputable sources and inspect the card before you buy.** Although purchasing gift cards from online auction sites may be easy and inexpensive, you may be purchasing stolen or counterfeit gift cards.

Consider purchasing gift cards directly from the merchant or issuer, either online or at their brick-and-mortar locations. Avoid purchasing from a merchant that is struggling to stay in business or has filed for bankruptcy.

Inspect the card before you buy to make sure protective stickers have not been removed, codes or PIN numbers remain hidden, and the card has not otherwise been altered. If you purchase a card that you later discover has been altered, report it in writing to the issuer immediately.

3. **Comparison shop.** For example, if you would ordinarily purchase a gift card from a mall, and the gift card the mall sells is issued by a financial institution which charges fees, ask yourself if all of those terms and conditions are really worth the relative ease of buying that card. And why would you buy the card from the mall, if you can purchase a merchant-issued card from the recipient’s favorite store in the mall without worrying about inactivity fees or short expiration dates? Or why not give cash instead?



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Merchants compete for your business, especially during the holiday shopping season. Use this competition to your advantage—be a savvy shopper, and do your homework *before* you buy.

- 4. Use a credit card to pay for the gift card.** If there is a problem with the card, you can refuse to pay that charge and dispute it, in writing and within 30 days of the first credit card bill listing the disputed charge.
- 5. Ask for an extra receipt.** Keep the duplicate receipt and give the original to the gift recipient.

A receipt will be critical if the card is lost or stolen and important in case a merchant indicates that there is less value on the card than you anticipated (for example, if you use a gift card that should have \$50 on it, but the merchant informs you that the card is empty).

Gift card merchant restrictions

Although the following list is not exhaustive, Michigan law prohibits merchants from doing any of the following:

- refusing to accept a gift card for personal, family, or household use UNLESS it has an expiration date that is more than five years from the date of purchase, and the gift card is presented after the expiration date;
- changing the terms and conditions of a gift card after the time of purchase;
- failing to disclose terms and conditions of a gift card; and
- refusing to apply the value of a gift card or gift certificate to the purchase price of goods or services, if the value of the gift card or gift certificate is less than the purchase price of the goods or services.

For example, you see a watch that you would like to buy, but the watch costs \$50 and you received a \$25 gift card for your birthday.

The merchant must accept the \$25 gift card (assuming you comply with all other terms and conditions to use the card) and apply it towards your \$50 watch purchase—which means you still owe the merchant \$25, plus tax.

Also, a merchant cannot charge an inactivity or other service fee and deduct it from the value of the gift certificate. However, merchants can charge a fee in connection with purchasing the card, but they can't deduct it from the value of the card.

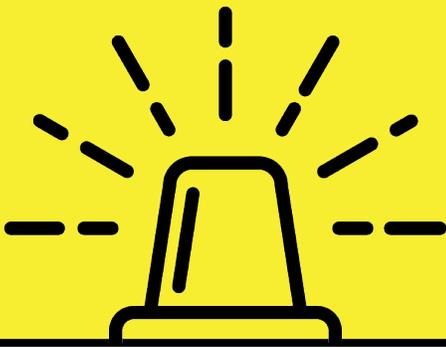
Thus, a merchant can charge you a \$1 gift card purchase fee at the time you buy a \$25 gift card, but they can't deduct this fee from the value of the card (i.e., they can't give you a \$25 gift card with only \$24 on it). If you buy a \$25 gift card, \$25 should remain on the card unless you use it to purchase something.

Financial institutions are also prohibited from charging inactivity or service fees on gift cards that they issue within a year of purchase. After a year of purchase, they may charge fees, but they cannot charge more than one fee per month.



The number one reason people lose money with gift cards is because they lose them or forget to use them.

Use gift cards as soon as you can, even if there is no reason to suspect the merchant is having financial difficulties.



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Spot and Stop Gift Card Scams

SPOT IT

While selecting a gift card, you notice the packaging looks odd or the card's PIN cover or sticker is missing. Some thieves will open packaged cards, get the numbers, then tidy the packaging back up using stickers or leaving scratched-off PINs exposed.

STOP IT

Inspect gift cards before you purchase them. Look for signs of tampering. Take any suspicious cards to the cashier and buy a different card.

SPOT IT

A recent reported gift card scam involved a fake barcode that was placed over the back of the gift card, so when the purchaser loaded the card, the information and money went to the fake barcode. This was discovered when the victim went to use the card and was told that the card was never activated.

STOP IT

Inspect gift cards carefully before you buy them; use them as soon as you can; and report any fraud as soon as you discover by [filing a complaint with the Michigan Attorney General](#) and the [Federal Trade Commission](#).

SPOT IT

Switched at checkout: a cashier acts distracted or tries to distract you when activating your gift card and hands you back a different card. The gift card number doesn't match the number on the activation receipt.

STOP IT

Keep your eye on your gift card at all times and ask to have it handed back to you as soon as it is activated. Get a receipt and check the gift card number on the activation receipt to make sure it matches on the card you are given back from the cashier.

SPOT IT

You want to sell an unused gift card and the buyer asks to listen as you call to confirm the balance of the gift card. If you allow it, the fake buyer will record the touch tone numbers and use the gift card number without paying you for it.

STOP IT

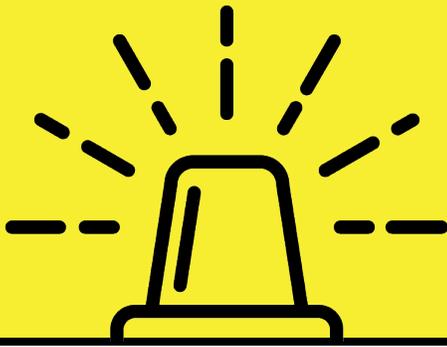
Only sell gift cards to a reputable card reseller that offers a money-back guarantee or take your card to a gift card exchange kiosk.

SPOT IT

You get a call from someone instilling panic and urgency—your grandchild is going to jail; you will be arrested for past due taxes; or your utilities will be turned off unless you immediately go to the nearest retailer and purchase iTunes gift cards then share the 16-digit code with the caller to make your payment.

STOP IT

Hang up! No reputable company nor government agency will ever demand payment with a gift card.



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Gift Card FAQs

Here are answers to frequently asked questions about Michigan and federal rules regarding gift cards:

1. Can gift cards expire?

In general, gift cards (including both merchant and bank-issued cards) and purchased **after August 22, 2010**, cannot expire **within five years of purchase**. That means a merchant that issues a gift card cannot refuse to accept it “for personal, family, or household use” if you present it within five years from purchase or when value was added. But a merchant **can refuse** to accept a gift card that was issued more than five years ago, if the terms and conditions were clearly and conspicuously disclosed and one of those terms and conditions was an expiration date of at least five years.

The bottom line: Before you purchase a card, be sure to ask about expiration dates or other terms and conditions. If expiration dates or other terms and conditions are not easy to spot, **don't buy the card**.

2. Do state and federal gift card laws apply to all gift cards?

No. Some of the cards that those laws do NOT apply to include:

- debit cards;
- pre-paid calling cards;
- cards linked to health savings accounts;
- pre-paid discount cards;
- payroll cards;
- gift cards sold below face value or at a volume discount to an employee, non-profit, charitable organization, or educational institution “for fundraising purposes”; and
- gift cards given to employees or consumers as part of an “awards, rewards, loyalty, or promotional program” as long as the consumer or employee is not required to give consideration for the card.

3. What should I do if the merchant who issued my gift card files for bankruptcy?

You should contact the merchant to determine if it is still accepting gift cards. This information may also be available on the retailer's website. Even if the merchant is not currently accepting gift cards, it may resume doing so later, so you should check periodically. The merchant's competitors may also be willing to honor the gift card.

If you have a general consumer problem, or want to file a complaint:

Consumer Protection Division
P.O. Box 30213
Lansing, MI 48909
517-373-1140
Fax: 517-241-3771
Toll free: 877-765-8388
[Online complaint form](#)



Bill Schuette
Attorney General

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