
New CO Law Requires Cash Redemption of Gift Cards with \$5 or Less Remaining

by Deborah S. Thoren-Peden and Chelcey Emiko Houston

On August 11, 2010,¹ Colorado will be added to the list of states that currently require gift cards to be redeemable for cash if a certain value remains on the card. Currently, that list includes the following seven states: California, Maine, Massachusetts, Montana, Rhode Island, Vermont, and Washington.

On April 29, 2010, the governor of Colorado signed Senate Bill 155. The new law adds Section 6-1-722 to the Colorado Revised Statutes and provides that on and after the effective date of the new section, an issuer of a gift card must, on the request of the cardholder, redeem the gift card for cash if the remaining amount is \$5.00 or less. The new law also prohibits the sale of any gift card that contains a service fee, a dormancy fee, an inactivity fee, a maintenance fee, or any other type of fee.

The new law defines the term “gift card” as a prefunded tangible or electronic record of a specific monetary value evidencing an issuer’s agreement to provide goods, services, credit, money, or anything of value. The term includes, but is not limited to, a tangible card; electronic card; stored-value card; or certificate or similar instrument, card, or tangible record, all of which contain a microprocessor chip, magnetic chip, or other means for the storage of information and for which the value is decremented upon each use.

However, under the new law, the term “gift card” does **not** include:

- a prefunded tangible or electronic record issued by, or on behalf of, any government agency;
- a gift certificate that is issued only on paper;
- a prepaid telecommunications or technology card;
- a card or certificate issued to a consumer pursuant to an awards, loyalty, or promotional program for which no money or other item of monetary value was exchanged; or



¹ Colorado’s new law will take effect on August 11, 2010, provided that the General Assembly adjourns on May 12, 2010, as currently scheduled.

- a card that is donated or sold below face value at a volume discount to an employer or charitable organization for fundraising purposes.

Cards that do not fall within, or are specifically excluded from, the definition of “gift card” are exempt from Colorado’s new requirements. Further, the new law does **not** apply to open-loop gift cards (i.e., gift cards that are usable with multiple, unaffiliated sellers of goods or services). But the law clearly applies to gift cards usable only with affiliated sellers of goods or services.

The new requirements will only apply to gift cards issued on or after the effective date, which is 90 days after the Colorado General Assembly’s final adjournment. The General Assembly’s final adjournment is currently scheduled for May 12, 2010, and if the legislature adjourns as planned, the new law will take effect on August 11, 2010.

To avoid potential litigation, businesses that currently issue and/or sell gift cards in Colorado should take steps to ensure that none of their gift cards are subject to any fees and all of their employees are informed of Colorado’s new cash redemption requirement before August 11, 2010.

If you have any questions about the content of this advisory, please contact the Pillsbury attorney with whom you regularly work or the attorneys below.

Deborah S. Thoren-Peden **(bio)**
Los Angeles
+1.213.488.7320
deborah.thoren-peden@pillsburylaw.com

Chelcey Emiko Houston **(bio)**
Los Angeles
+1.213.488.7310
chelcey.houston@pillsburylaw.com

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