

FAQ: Maryland's New Gift Card Law

In May 2024, Maryland passed the Gift Cards Scam Protection Act, which is the first law in the country that takes aim at stopping what is known as “gift card draining.” The law goes into effect for open-loop gift cards on June 1, 2025, and on October 1, 2025, for closed-loop gift cards.

While the new law looks to protect consumers from fraud, it will nonetheless create new gift card requirements for retailers. Moreover, many experts are speculating that the Maryland law could be used as model legislation around the country, meaning the impact of this law could be coming to your bookstore in the near future.

With that in mind, here is a FAQ about Maryland's new gift card law.

What are open-loop gift cards?

Essentially, this would be a gift card that can be used anywhere that accepts payment card networks (Mastercard, Visa, American Express, etc.). Specifically, the law's definition is as follows:

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) payment card network branded; and*
- (3) redeemable on presentation at **multiple unaffiliated merchants** for goods or services within the payment card network; or usable at an automated teller machine.*

What are closed-loop gift cards?

Essentially, this would be a store-branded gift card for use only at your store(s). Specifically, the law's definition is as follows:

A 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**.*

What is gift-card draining?

Gift card draining is when a thief (sometimes called a “runner”) steals gift cards from stores, captures their numeric codes, or swaps them out for counterfeit cards. The thieves then place

the products back on display, and when an unsuspecting customer loads money onto the tampered card, the criminals access it online and steal the balance.

What is the Gift Cards Scam Protection Act?

The Gift Cards Scam Protection Act looks to tackle the issue through employee education, new packaging requirements for gift cards, and disclosure to consumers by way of store signage. Under the law, gift cards must be in secure packaging not easily opened without signs of tampering and that conceals all numeric codes specific to the activation or the redemption of the gift card, including any bar code, CVV number, pin number or activation code. The packaging must include a warning that informs consumers/retailers to not buy/sell the gift card if the packaging has been broken or looks as if it's been tampered with.

The Act will also require retailers to display signage where open-loop gift cards are displayed. Model signage will be provided by the Division of Consumer Protection in the Office of the Attorney General. The signage will caution consumers about gift card scams; instruct them on what to do if they suspect they are a victim of a gift card scam; and indicate that a gift card may not be used to pay debt.

The Act also stipulates that a merchant that displays an open-loop gift card for sale at a retail establishment must provide training to all employees whose duties regularly include the sale of open-loop gift cards to consumers. The training should detail how to identify and respond to gift card fraud.

What does the law mean by “secure packaging”?

Secure packaging is described as a gift card package that is not easily opened without signs of tampering and that conceals all numeric codes specific to the activation or the redemption of the gift card, including any bar code, CVV number, pin number or activation code. The packaging must include a warning that informs consumers/retailers to not buy/sell the gift card if the packaging has been broken or looks as if it's been tampered with.

Are there any exceptions to these rules?

Yes. A retailer may sell an open-loop gift card that is not enclosed in secure packaging if the gift card is sold exclusively by a merchant for use ONLY at the retail establishment of the merchant, or a group of affiliated merchants for use at the retail establishment of the affiliated merchants—and ONLY then if the cards are kept in a secure location that is accessible only by employees of the merchant, it will not have to have secure packaging.

The merchant may also sell an open or closed loop gift card that is not enclosed in secure packaging if the gift card is chip-enabled, numberless card that is activated by the consumer after registering the card on the card issuer's website.

However, in an e-mail to ABA, a representative from Maryland's Division of Consumer Protection essentially recommends erring on the side of caution with open-loop gift cards, e.g., do not sell them unless they are in secure packaging.¹

Can open-loop gift cards that do not have secure packaging be sold at a retail store?

No. Open loop gift cards without secure packaging cannot be sold at a retail store.

What about selling cards that do not have secure packaging?

Maryland's Division of Consumer Protection recommends not selling open-loop gift cards if they do not have secure packaging. If closed-loop gift cards are sold exclusively by a merchant for use only at the retail establishment of the merchant, or a group of affiliated merchants for use at the retail establishment of the affiliated merchants, then if the cards are kept in a secure location that is accessible only by employees of the merchant, it will not have to have secure packaging.

I sell gift cards online. Does the law cover online sales of gift cards?

Yes, it does. The retailer must conspicuously display a notice on the webpage that displays where the gift card is offered for sale or that is displayed immediately before the sale is finalized. The notice regarding gift cards should caution a consumer about gift card scams; instruct the consumer on what to do if the consumer suspects the consumer may be a victim of a gift card scam, and indicates a gift card may not be used to pay debt. The Division of Consumer Protection will release model notices that retailers will use prior to the June 1, 2025, implementation of the law.

What are retailers' liabilities under the new law?

Anyone who violates the law could be subject to penalties and law enforcement and fines are steep. However, before initiating an enforcement action for a violation, the Division of Consumer Protection in the Office of the Attorney General may issue a notice of violation to the violator if it determines that it is possible to fix the violation; no consumer was harmed as a result of the violation; and the alleged violator has not previously violated the law.

¹ A rep from Maryland's Division of Consumer Protection e-mailed ABA and stressed: "Although the statute provides that if open loop gift cards sold exclusively by a merchant for use *only at the retail establishment of the merchant*, or a group of affiliated merchants for use at the retail establishment of the affiliated merchants, does not have to be in secure packaging if the cards are kept in a secure location that is accessible only by employees of the merchant, **we note that the definition of open-loop gift card makes this unlikely**. Specifically, an open-loop gift card is defined as a card, code or device that is 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, is payment card network branded and redeemable on *presentation at multiple unaffiliated merchants* for goods or services within the payment card network. The italicized portions show why it is unlikely that an open-loop gift card can be sold without secure packaging, even if it is kept behind a counter and is only accessible to employees."

The law will be enforceable by the Consumer Protection Division and subject to all penalties available to the Division under the Consumer Protection Act (CPA). Civil penalties for violations of the CPA can be up to \$10,000 per violation for a first violation and up to \$25,000 per violation for a subsequent violation. A violator may also be required to pay restitution and costs.

For more information, please contact Maryland's Division of Consumer Protection at 410-576-6550 or via e-mail at consumer@oag.state.md.us.