

HB0896/563828/1

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 896
(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) 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 25, strike “AND” and substitute “;

(II) EXCEPT AS PROVIDED IN ITEM (III) OF THIS ITEM,;

in line 26, after “THE” insert “**ACTIVATION OR THE REDEMPTION OF THE**”; in line 27, after the semicolon insert:

“(III) DISPLAYS AN ACTIVATION CODE, BAR CODE, OR OTHER ACTIVATION DATA ONLY IF THE PACKAGING USED IS MORE SECURE THAN IT OTHERWISE WOULD BE IF THE DATA WERE FULLY CONCEALED;;

in line 28, strike “(II)” and substitute “(IV)”; in the same line, 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” and substitute “**ALL**”; in the same line, after “MERCHANT” insert “**WHOSE DUTIES REGULARLY**”

(Over)

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.

(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

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(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:

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(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:

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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;

(ii) Except as provided in item (iii) of this item, 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;

(iii) Displays an activation code, bar code, or other activation data only if the packaging used is more secure than it otherwise would be if the data were fully concealed; and

(iv) 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

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

(i) 1. CONCEALS OR COVERS, IN A MANNER THAT IS NOT EASILY REMOVED OR REPLACED WITHOUT SIGNS OF TAMPERING, ALL NUMERIC CODES SPECIFIC TO THE REDEMPTION OF THE GIFT CARD; OR

2. IF MADE MORE SECURE THROUGH PARTIAL CONCEALMENT OR COVERING THAN FULL CONCEALMENT OR COVERING UNDER ITEM 1 OF THIS ITEM, PARTIALLY CONCEALS OR COVERS, IN A MANNER THAT IS NOT EASILY REMOVED OR REPLACED WITHOUT SIGNS OF TAMPERING, ALL NUMERIC CODES SPECIFIC TO 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

(2) The gift card:

(i) Is sold exclusively by:

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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;

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(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;

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(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:

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(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.”.