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New Law Requires Businesses Selling Gift Cards to Display Warnings About Scams

June 21, 2023

A new law in New York State requires all businesses selling gift cards[1] in the state to display a notice at or near where any gift card is displayed or sold to caution consumers about prepaid card scams. The new law became effective on June 20, 2023.

Section 396-i of the General Business Law was amended by adding a new subdivision 2-b which provides that no person, firm, partnership, association or corporation shall sell a gift card to a purchaser unless the seller displays a conspicuous notice at or near where the gift card is displayed or at or near the physical location where the sale occurs, that (i) cautions the purchaser about prepaid card scams, and (ii) instructs the purchaser on what to do if they suspect they might be a potential victim of such a scam.

To the extent a financial institution sells gift cards, the institution will be subject to this new requirement.

The New York Department of State's Division of Consumer Protection has published model notices that gift card sellers can download and post to comply with this new law. These downloadable notices are available in three different sizes on the Division of Consumer Protection website. Please note that businesses can also choose to make their own notices.

This advisory is a general overview of this new requirement and is not intended as legal advice. If you have any questions about gift cards, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at **jsimon@cullenllp.com**, Elizabeth A. Murphy at (516) 296-9154, or via email at **emurphy@cullenllp.com**, or Gabriela Morales at (516) 357-3850 or via email at **gmorales@cullenllp.com**.

Footnotes

[1] The term used in the law is "gift certificate," which is defined as "a certificate, electronic card, or other pre-funded record that: (i) is usable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo, or is usable at multiple, unaffiliated merchants or service providers; and (ii) is issued in a specified amount; and (iii) may or may not be increased in value or reloaded; and (iv) is purchased and/or loaded on a prepaid basis for the future purchase or delivery of any goods or services; and (v) is honored upon presentation." This advisory uses the more common term "gift card."

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Attorneys

- Joseph D. Simon
- Elizabeth A. Murphy
- Gabriela Morales