

June 17, 2011

Dear Retail Clients and Friends,

On June 14, Oregon Governor John Kitzhaber signed an amendment to the state's gift card law that will require retailers to provide customers a cash redemption option for gift cards with a value of less than \$5. This edition of ***Morgan Lewis Retail Did You Know?*** describes the new requirement and its application to retailers.

Background

Currently, six states have laws requiring retailers to provide a cash redemption once a gift card's value falls below a certain dollar amount. These laws have been a source of class action litigation against retailers over the last few years. For instance, dozens of putative class action cases have been filed against retailers in California, alleging failure to comply with California's cash redemption law. Oregon has now joined the list of states requiring cash redemption of gift cards upon customer request.

The Amendments

As amended, Oregon's gift card law requires that retailers permit customers to redeem gift cards for cash when a card's value falls below \$5. The law does not require retailers to automatically provide a cash redemption, but simply requires that it be an option for customers who request it. The law also has certain exclusions. For example, it does not apply to gift cards issued for promotional purposes or used for online purchases. In addition, the requirement does not apply to unused gift cards—only cards used for at least one purchase.

The law goes into effect January 1, 2012 and only applies to gift cards sold after that date.

Practical Advice

Retailers with stores in Oregon should make sure they have procedures in place to allow for cash redemptions of gift cards. They should also be sure to revise their standard operating procedures and send notices to their stores advising them of the new law.

How We Can Help

Morgan Lewis can assist with an efficient review of a retailer's gift card program for compliance with Oregon's new cash redemption provisions and other state gift card laws. We have advised clients regarding gift card issues and successfully handled gift card-related litigation. We apply that knowledge to provide cost-effective and cutting-edge counsel to our clients.

If we can be of assistance to you in these matters, please feel free to get in touch with your Morgan Lewis contact or any of our Retail Practice leaders:

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These individuals are part of our international Retail Practice. Attorneys from our 22 offices regularly represent national, regional, and local retailers in a broad array of subject matters including litigation, labor and employment, real estate, tax, transactional, and regulatory.

About Morgan Lewis Retail Did You Know? This message is part of our effort to educate our retail clients and friends about important legal developments. One thing we hear frequently from our retail clients is that it is hard to keep track of new and emerging laws and lawsuit trends that affect retailers. All too frequently, the first notice comes in the form of a lawsuit seeking millions of dollars. To help you be more proactive in managing legal compliance, we are providing these emails.

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