

North Dakota

Are mandatory arbitration provisions recognized in your state? If so, are there any limitations to its enforcement?

Yes, North Dakota generally recognizes mandatory arbitration provisions:

an agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except upon a ground that exists at law or in equity for the revocation of a contract.ⁱ

What is your state's law, if any, regarding gift cards, subscription services and loyalty programs?

I. Gift Cards/Certificates

Chapter 51-29 of Title 51, Sales and Exchanges governs gift cards/certificates in North Dakota. The Attorney General is authorized to enforce the code section regulating gift certificates and may seek all remedies and penalties of the Unlawful Sales or Advertising Practices Act.ⁱⁱ North Dakota defines gift certificates as

a record evidencing a promise, made for monetary consideration, by the seller or issuer of the record that goods or services will be provided to the owner of the record to the value shown in the record. The term includes a record that contains a microprocessor chip, magnetic strip, or other means of storage of information that is prefunded and for which the value is decreased upon each use; a gift card; an electronic gift card; an online gift account; a stored-value card; a store card; a prepaid telephone card; or a similar record or card.ⁱⁱⁱ

Regarding the sale of a gift certificate, a person cannot 1) charge additional monthly or annual service or maintenance fees on a gift certificate; 2) limit the time for redemption of a gift certificate to a date 6 years after the date of purchase; 3) place an expiration date on a gift certificate before 6 years after the date of the sale of the gift certificate.^{iv} The restrictions on expiration dates and service fees does not apply to gift certificates "distributed to a consumer pursuant to an awards, loyalty, or promotional program without any money or other thing of value being given in exchange for the gift certificate by the consumer. Any restriction or limitation on such gift certificate must be disclosed to the consumer, in writing, at the time the gift certificate is distributed to the consumer."^v

II. Subscription Services/Loyalty Programs

We could not locate any state statutes, case law, or regulations on subscription services or loyalty programs.

ⁱ NDCC § 32-29.3-06(1).

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ii NDCC § 51-29-03.

iii NDCC § 51-29-01.

iv NDCC § 51-29-02.

v *Id.*