

New Jersey

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

Yes, New Jersey 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

Chapter 23B, Subtitle 6 of the New Jersey state code governs arbitrations, including agreements to arbitrate. The arbitration act applies to all agreements to arbitrate made 1) on or after January 1, 2003 with the exceptions of agreements to arbitrate in collective bargaining or collectively negotiated agreements; 2) before January 1, 2003 of all parties to the agreement agree in a record with the exception of agreements to arbitrate in collective bargaining or collectively negotiated agreements; and 3) on or after January 1, 2005 with the exception of agreements to arbitrate in collective bargaining or collectively negotiated agreements.ⁱⁱ The New Jersey legislature authorized binding arbitration for several types of legal disputes.ⁱⁱⁱ

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

I. Gift Cards

New Jersey's law governing gift cards falls generally under the state Unfair Trade Practices Act. A gift card is different from a gift certificate; New Jersey law defines each as

"gift card" means a tangible device, whereon is embedded or encoded in an electronic or other format a value issued in exchange for payment, which promises to provide to the bearer merchandise of equal value to the remaining balance of the device. "Gift card" does not include a prepaid telecommunications or technology card, prepaid bank card or rewards card

"gift certificate" means a written promise given in exchange for payment to provide merchandise in a specified amount or of equal value to the bearer of the certificate. "Gift certificate" does not include a prepaid telecommunications or technology card, prepaid bank card or rewards card^{iv}

N.J.S.A. 56:8-110 governs the sale and purchase of gift cards and gift certificates. Gift cards/certificates retain the full unused value until presented in exchange for merchandise.^v The gift card/certificate shall not expire within the 24 months following the date of sale.^{vi} No dormancy fee shall be charged against a gift card/certificate within the 24 months immediately following the date of sale or within the 24 months

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following the most recent activity on the gift card/certificate.^{vii} Any dormancy fee shall not exceed \$ 2.50 per month.^{viii} The expiration date or dormancy fee on a gift card/certificate must comply with the notice requirements set forth in N.J.S.A. 56:8-110(b)(1)–(2). After September 1, 2012, a merchant shall refund the balance on a stored value card at the request of the owner so long as the balance is less than \$ 5.00.^{ix} Non-compliance with this code section is subject to financial penalties.^x

Every retail mercantile in New Jersey that displays gift cards must train employees on how to identify and respond to gift card fraud in accordance with state guidelines.^{xi} The Director of the Division of Consumer Affairs in the Department of Law and Public Safety is authorized to issue guidelines on the detection and prevention of gift card theft.^{xii}

Gift cards fall under New Jersey’s Unclaimed Property Act as a type of “stored value card.”^{xiii} A stored value card, issued on or after July 1, 2010, is presumed abandoned after 5 years of inactivity.^{xiv} Generally, the value of a presumed abandoned stored value card is 60% the value of the card.^{xv}

II. Subscription Services/Loyalty Programs

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

ⁱ N.J.S.A. § 2A:23-B-6(a)

ⁱⁱ N.J.S.A. § 2A:23B-3(a)–(c).

ⁱⁱⁱ See *Jersey Cent. Power & Light Co. v. Melcar Utility Co.*, 59 A.3d 561, 574–75 (N.J. 2013) (collecting examples: N.J.S.A. § 27:25–14 (concerning employer-employee relations within New Jersey Transit Corporation), N.J.S.A. § 34:13A–16 (dealing with labor negotiations with public fire and police departments), N.J.S.A. § 52:27BB–61 (addressing municipalities and school districts in unsound financial condition), and N.J.S.A. § 58:10–23.11(n) (concerning pollution claims arising from discharges into water)).

^{iv} N.J.S.A. § 56:8-110(d).

^v *Id.* at § 110(a).

^{vi} *Id.* at § 110(1)

^{vii} *Id.* at § 110(2).

^{viii} *Id.* at § 110(3).

^{ix} *Id.* at § 110(c).

^x *Id.*

^{xi} N.J.S.A. § 56:8-110.1.

^{xii} N.J.S.A. § 56:8-110.2.

^{xiii} N.J.S.A. § 46:30B-6(t).

^{xiv} N.J.S.A. § 46:30B-42.1(a).

^{xv} *Id.* at § 42.1(b).