

Nevada

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

Yes, Nevada recognizes agreements to arbitrate and such agreements are “valid, enforceable and irrevocable except as otherwise provided in NRS 597.995 or upon a ground that exists at law or in equity for the revocation of a contract.”ⁱ To be enforceable, an agreement to arbitrate “must include specific authorization for the provision which indicates that the person has affirmatively agreed to the provision.”ⁱⁱ If the agreement to arbitrate fails to include the specific authorization, the mandatory arbitration provision is void and unenforceable.ⁱⁱⁱ The specific authorization requirement does not apply to an agreement that is a collective bargaining agreement or a provision in a will.^{iv} And, the enforceability of mandatory arbitration agreements in a will or trust instrument is governed by N.R.S. 164.930.^v

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

I. Gift Cards

Nevada defines a gift certificate/gift card as

an instrument or a record evidencing a promise by the seller or issuer of the instrument or record to provide goods or services to the holder of the gift certificate for the value shown in, upon or ascribed to the instrument or record and for which the value shown in, upon or ascribed to the instrument or record is decreased in an amount equal to the value of goods or services provided by the issuer or seller to the holder. The term includes, without limitation, a gift card, certificate or similar instrument.^{vi}

Certain actions related to the sale of gift cards falls under the Nevada Deceptive Trade Practices Act. Specifically,

A person shall not, in the course of the person's business or occupation, offer to provide a gift certificate or gift card, free of charge, as part of a promotion or incentive to potential customers if the promotion or incentive is redeemable only by mail, unless the expiration date of the offer is printed plainly and conspicuously in 12-point bold font on any brochure, leaflet, pamphlet, packaging, advertisement or other written material provided to the recipient of the offer which contains information concerning the offer. This subsection does not apply to an offer upon which the gift certificate or gift card will be provided directly to a potential customer.^{vii}

Further, deceptive trade practices encompass the following actions taken in the course of a business or occupation:

Issuing a gift certificate that expires on a certain date, unless certain notice

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requirements are met;^{viii}

Imposing a service fee unless certain notice requirements are met;^{ix}

Imposing a monthly service fee, regardless of the notice, that exceeds \$ 1 per month or is imposed within 12 months after the issuance of the gift certificate.^x

The requirements of N.R.S. 598.0921 do not apply to the following categories of gift cards:

A gift certificate that is issued as part of an award, loyalty, promotional, rebate, incentive or reward program and for which issuance the issuer does not receive money or any other thing of value;

A gift certificate that is sold at a reduced price to an employer or nonprofit or charitable organization, if the expiration date of the gift certificate is not more than 30 days after the date of sale; and

A gift certificate that is issued by an establishment licensed pursuant to the provisions of chapter 463 of NRS.^{xi}

The unclaimed value on a gift certificate is governed by Nevada's Unclaimed Property law. Sixty percent of the unredeemed or uncharged value remaining on a gift certificate sold or issued in Nevada and which has an expiration date is presumed abandoned on said expiration date.^{xii} If the seller of a gift certificate does not obtain or maintain the name and address of the owner of the gift certificate, the address of the owner, once abandoned is the Office of the State Treasurer in Carson City.^{xiii}

II. Subscription Services/Loyalty Programs

We could not identify any state statute, case law, or regulation regarding subscription services or loyalty program.

ⁱ N.R.S. § 38.219(1).

ⁱⁱ N.R.S. § 597.995(1).

ⁱⁱⁱ *Id.* at § 597.995(2).

^{iv} *Id.* at § 597.995(3).

^v *Id.* at § 597.995(4); *see also* N.R.S. §164.930.

^{vi} N.R.S. § 598.0921(3)(a).

^{vii} N.R.S. § 598.09213(1).

^{viii} N.R.S. § 598.0921(1)(a).

^{ix} *Id.* at § 598.0921(1)(b).

^x *Id.* at § 598.0921(1)(c).

^{xi} *Id.* at § 598.0921(2)(a)–(c).

^{xii} N.R.S. § 120A.520(1).

^{xiii} *Id.* at § 120A-520(2).