

Oklahoma

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

Yes, Oklahoma generally recognizes mandatory arbitration provisions. Under the Oklahoma Uniform Arbitration Act, an agreement that includes a mandatory arbitration provision is valid, enforceable, and irrevocable, subject to the defenses of contract law.ⁱ However, the Act does not come without exceptions. A later provision of the Act notes that it does not apply to agreements that reference insurance, aside from contracts between insurance companies.ⁱⁱ

Recently, the Oklahoma Supreme Court analyzed whether Oklahoma law prohibits mandatory arbitration provisions in contracts that involve or reference insurance, and if so, whether federal law preempts Oklahoma law.ⁱⁱⁱ Generally, the Federal Arbitration Act preempts state law from restricting the enforcement of arbitration provisions.^{iv} However, the federal McCarran-Ferguson Act gives states absolute authority over matters relating to insurance regulation.^v In comparing these Acts, the Court in *Sparks* determined that Oklahoma law reverse preempts the Federal Arbitration Act.^{vi} Therefore, under the *Sparks* holding and Oklahoma law, agreements in the state of Oklahoma that reference or involve insurance are prohibited from using mandatory arbitration provisions.^{vii}

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

I. Gift Cards

Since 2005, the state of Oklahoma has governed the use of gift certificates and gift cards through the Gift Certificate and Gift Card Disclosure Act.^{viii} This Act governs gift cards and gift certificates for goods or services from either a single merchant or a group of merchants affiliated through common corporate ownership or control.^{ix} Notable provisions from the Act include:

- An expiration date cannot expire less than sixty (60) months from the date of purchase. If there is no expiration date shown on the card or certificate, it will be valid until redeemed or replaced.^x So long as the cards or certificates provide the expiration date on the front of the card in at least 10-point font, the following, among others, are excluded from this provision:
 - Cards or certificates issued to a consumer pursuant to an awards, loyalty, or promotional program when they are given without consideration.^{xi}
 - Cards or certificates that are issued for a food product.^{xii}
- In general, gift cards and certificates are not permitted to use a service fee,

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including a service fee for dormancy.^{xiii} However, this provision is also subject to exclusions, such as when the following criteria are met:

- The remaining value of the gift card or certificate is \$5.00 or less each time a fee is assessed;
 - The fee does not exceed \$1.00 per month;
 - There has been no activity, including adding value or balance inquiries, for twenty-four (24) consecutive months;
 - The card or certificate holder is able to add value to the card or certificate; and
 - A statement is printed on the card or certificate in at least ten-point font with the specifics of the fee.^{xiv}
- A gift card or certificate issuer is permitted to accept funds from one or more contributor toward the card or certificate purchase, so long as additional requirements are met.^{xv}

In 2022, Oklahoma Senate passed Bill 418, updating the name of the Oklahoma Gift Certificate and Gift Card Disclosure Act to the Oklahoma INFORM Act.^{xvi} The new Oklahoma INFORM Act does not replace the provisions of the prior version of the Act, but instead adds new requirements specific to online marketplace sellers.^{xvii}

II. Subscription Services/Loyalty Programs

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

ⁱ Okla. Stat. tit. 12 § 1857(A).

ⁱⁱ Okla. Stat. tit. 12 § 1855.

ⁱⁱⁱ *Sparks v. Old Republican Home Prot. Co.*, 2020 OK 42, 467 P.3d 680.

^{iv} 9 U.S.C.S. § 1, et seq.

^v 15 U.S.C.S. § 1012.

^{vi} *Sparks*, 2020 OK 42 at ¶ 35.

^{vii} *Id.*

^{viii} Okla. Stat. tit. 15 §§795-799.

^{ix} Okla. Stat. tit. 15 § 796.

^x Okla. Stat. tit. 15 § 797 (A), (B).

^{xi} Okla. Stat. tit. 15 § 797 (C).

^{xii} *Id.*

^{xiii} Okla. Stat. tit. 15 § 797(A).

^{xiv} Okla. Stat. tit. 15 § 797(D).

^{xv} Okla. Stat. tit. 15 § 797(E).

^{xvi} Okla. Stat. tit. 15 §§ 799A.1 – 799A.8 (eff. January 1, 2023).

^{xvii} *Id.*