

South Dakota

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

Yes, South Dakota generally recognizes mandatory arbitration provisions:

A written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity for the revocation of any contract. This chapter also applies to arbitration agreements between employers and employees or between their respective representatives.ⁱ

By statute, South Dakota renders all mandatory arbitration provisions contained in an insurance policy void and unenforceable.ⁱⁱ

Chapter 21-25b governs arbitration agreements relating to medical services. Generally, a patient and his treating hospital or physician can enter an agreement to arbitrate disputes over the services provided.ⁱⁱⁱ Such an agreement to arbitrate between a patient and his treating hospital or physician must contain the following provision in 12 point boldface font immediately above the space for signature:

The agreement to arbitrate is not a prerequisite to health care or treatment. By signing this contract you are agreeing to have any issue of medical malpractice decided by neutral arbitration and you are giving up your right to a jury or court trial.^{iv}

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

I. Gift Cards

South Dakota adopted the Uniform Unclaimed Property Act which states the following about gift certificates:

(a) A gift certificate or a credit memo issued in the ordinary course of an issuer's business which remains unclaimed by the owner for more than three years after becoming payable or distributable is presumed abandoned.

(b) In the case of a gift certificate, the amount presumed abandoned is the price paid by the purchaser for the gift certificate. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.^v

However, the Uniform Unclaimed Property Act does not apply to any gift certificate that "has no expiration date and that is not subject to a dormancy, inactivity, or service fee."^{vi}

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II. Subscription Services/Loyalty Programs

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

ⁱ S.D.C.L. § 21-25A-1.

ⁱⁱ S.D.C.L. § 21-25A-3.

ⁱⁱⁱ S.D.C.L. § 21-25B-1.

^{iv} S.D.C.L. § 21-25B-3.

^v S.D.C.L. § 43-41B-15.

^{vi} S.D.C.L. § 43-41B-43.