



Ohio Attorney General's
**Consumer Advocate
Newsletter**

JANUARY 2015

January 2015

Make the Most of Your Holiday Gift Cards

Now that the holiday season is over, many consumers are likely excited to redeem their gift cards. But before making any purchasing decisions, consumers should know their gift card rights and beware of common gift card scams.

Gift cards are protected under both state and federal law. Under Ohio law, gift cards in any form — electronic, paper, or otherwise — generally cannot expire for at least two years. Under federal law, gift cards issued in electronic format for a specific amount cannot expire for a minimum of five years.

There are a number of exceptions related to gift card laws. For example, gift cards purchased for a specific service, such as a gift card for one manicure (as opposed to a specific dollar amount to a nail salon), are not protected under federal law. Additionally, “bonus” cards are not protected under state or federal law. Around the holidays, many businesses offer deals, such as “Buy a \$100 gift card, get a \$20 gift card free.” While the \$100 gift card would have all the protections the law offers, the \$20 gift card would not be subject to the expiration periods and could expire at any time. Make sure to check the dates closely on any bonus cards!

Sometimes, gift cards also can become the subject of scams. For example, a consumer may come across a legitimate-looking website advertising better deals than other stores’ websites. However, at the checkout page, the website requests a gift card number (not associated with the company), rather than a credit or debit card. Beware! Scammers may create phony websites — complete with fictitious customer reviews — to trick unsuspecting consumers into revealing redeemable gift card information. Unfortunately, once the information is provided, any money loaded on the card will be lost.

Consumers also should beware of text messages or emails from fake companies that prompt consumers to click on links in order to claim “free” gift cards. These scams are designed to trick consumers into clicking on malicious links, which could automatically install a virus onto the consumer’s device.

Ohio Attorney General Mike DeWine offers the following tips for avoiding gift card scams:

- Don’t purchase items from a website using gift cards that are not associated with that specific company.
- Ensure that a website address reads “[https](#)” — rather than “[http](#)” — before entering any personal information. The “s” indicates that the website is secure.

- Be skeptical of any text message, email, postcard, or letter stating that you have won a “free gift card.” If you receive such a message, contact the retail store using information listed from a reliable source, not the message itself, and report the potential scam. Know that in Ohio, consumers should not have to pay a fee for something that is “free.” Also, any legitimate prizes require no purchase.
- Never respond directly to suspicious messages in any way. By contacting the “company,” you are verifying that your phone number, email address, or mailing address is valid and you may be revealing other personal information.

If you suspect a scam or an unfair business practice, report it to the Ohio Attorney General’s Office at www.OhioAttorneyGeneral.gov or 800-282-0515.

Attorney General DeWine Spearheads \$3.8 Million Multistate Settlement with Sirius XM

Subscription-based satellite radio service Sirius XM has agreed to significantly change its business practices, pay \$3.8 million to the states, and provide payments to eligible consumers in 45 states and the District of Columbia, based on a recent agreement led by Ohio Attorney General Mike DeWine.

The agreement resolved allegations of violations of states’ consumer protection laws, including:

- Difficulty canceling contracts.
- Cancellation requests that were not honored.
- Misrepresentations that the consumer’s service would be canceled and not renewed.
- Contracts that were automatically renewed without consumers’ notice or consent.
- Unauthorized fees.
- Higher, unanticipated rates after a low introductory rate.
- Failing to provide timely refunds.

Under the terms of the settlement, Sirius XM agreed to make several significant changes to its business practices, including:

- Clearly and conspicuously disclosing all terms and conditions at the point of sale, such as billing frequency, term length, automatic renewal date, and cancellation policy.
- Not making misrepresentations about the available radio plans in advertisements.
- Providing advance notice about upcoming automatic renewals for plans lasting longer than six months.
- Revising the cancellation procedures to make it easier for consumers to cancel.
- Prohibiting compensation for customer service representatives based solely on retaining current customers who attempt to cancel.

Sirius XM also agreed to provide restitution to eligible consumers who have complaints about the problems addressed by the settlement. To be considered for restitution under this settlement, consumers must file a complaint concerning conduct that occurred from July 28, 2008, to Dec. 4, 2014, involving an identifiable loss that has not been previously resolved with the Ohio Attorney General's Office.

To file a complaint, Ohio consumers should contact the Ohio Attorney General's Office at www.OhioAttorneyGeneral.gov or 800-282-0515. Consumers also can contact Sirius XM directly with their complaints. Complaints can be sent by mail to PO Box 33059, Detroit MI 48232-5059 or by going to the following web address: www.siriusxm.com/settlementprogram.

Joining a Gym for the New Year? Know Your Rights

Every January, many consumers enroll in gym memberships that will help fulfill their New Year's resolution for a healthier lifestyle. In Ohio, gym memberships are generally considered "prepaid entertainment contracts," similar to contracts for dance or karate lessons or dating websites. These types of contracts provide consumers with certain rights such as the ability to cancel the agreements under certain circumstances.

Before signing a gym membership, consumers should be sure any benefits or features promised by the gym are included in a written contract. Only promises in writing are guaranteed. They also should read all the terms and conditions of membership prior to signing, including any fine print.

Additionally, gym goers should be aware of the following guidelines for canceling a prepaid entertainment contract:

- Consumers have three business days (excluding Sundays) to reconsider the purchase and cancel the agreement. The gym must provide customers with a copy of the written contract containing a "notice of cancellation."
- If a consumer cancels within the first three business days after entering into the prepaid entertainment contract, the gym must refund any money paid, but may charge an expense fee no greater than \$10.
- To cancel a gym membership, consumers should notify the gym by postal mail or in person. They should return the "notice of cancellation" provided with the written contract, or otherwise put the cancellation request in writing in the manner specified in the contract.
- If a consumer enters into a gym membership prior to the facility opening for business, the consumer has seven days to cancel from the first day the gym is open to customers.
- If a customer moves 25 miles or more away from the gym, or if the gym relocates at least 25 miles away from a customer, the customer has the right to a refund based on the time remaining on the membership, unless there is a similar facility located within 25 miles of the area of relocation.

Fitness centers that fail to give proper notice to consumers may be in violation of Ohio's consumer protection laws.

In 2014, the Ohio Attorney General sued South Beach Fitness of Westerville, LLC and its owners for violations of the Prepaid Entertainment Contracts Act, alleging that the defendants failed to give proper

notice regarding the facility's opening date, required excessive payment, and failed to honor refund requests. That case is ongoing.

If you suspect an unfair business practice, report it to the Ohio Attorney General's Office at www.OhioAttorneyGeneral.gov or 800-282-0515.

Joining a gym can be one of the first steps toward being healthier in 2015. By applying the tips in this article, you will be better protected as you work toward your fitness goals.

Scam Alert: Imposter Websites and Emails

Despite the many benefits of the Internet, such as shopping online and researching a business, there also are some pitfalls – among them, scam websites and email messages.

Some imposter websites target scam victims who have lost money using prepaid money cards. The FBI's Internet Crime Complaint Center has received complaints about phony MoneyPak refund websites. MoneyPak is a prepaid money card that can be used for legitimate purposes, but it also has become a preferred payment method for scam artists.

In Ohio, a consumer who lost thousands of dollars in a grandparent scam found a website that he initially thought was a legitimate MoneyPak company site. When the consumer called a telephone number he found on the site, a "representative" told him to purchase four \$500 MoneyPak cards so that a refund could be loaded onto the cards. Recognizing the scam, the consumer refused the representative's request.

Additionally, people who post items for sale online should watch out for fake PayPal email messages from potential buyers, otherwise known as "spoofed" emails. An Ohio individual who had an item listed for sale on Craigslist received spoofed emails that appeared to be from PayPal. One email stated that PayPal had received payment but said the money would not be released until the seller wired money to the "Pick-Up Agent." In reality, the scammer had created a phony email that was not from PayPal in order to trick the seller into wiring money. (If you find a suspicious "PayPal" email, you can forward it to spoof@paypal.com.)

Attorney General DeWine warns consumers about the red flags of an imposter website:

- *Web addresses that are similar (but not identical) to those of real organizations.* Fake websites often contain a slight misspelling, or may use a web address with an unfamiliar ending. For example, instead of using a common ending such as .com, .org, or .gov, scammers may use the country code for a foreign country or another unfamiliar designation or abbreviation.
- *Having to send a smaller payment in order to get a larger payment.* Scammers often try to trick their victims into sending some payment with the promise that soon the victim will receive a larger payment. Ultimately, while the victim's money is good, the scammer's claims are not, and the victim won't receive anything in return.
- *Requests for prepaid money cards or wire transfers.* These are two preferred payment methods for scam artists because they are relatively hard to trace once payment is sent and retrieved by the recipient.

Consumers who suspect a scam should contact the Ohio Attorney General's Office at 800-282-0515 or www.OhioAttorneyGeneral.gov.