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Liquor Law Update

MICHIGAN LAW AMENDED TO PROVIDE THAT GIFT CERTIFICATES MUST HAVE A LIFE SPAN OF AT LEAST FIVE YEARS

The Michigan Legislature has enacted new laws (Public Acts 208, 209, 210 and 211) which provide for restrictions and vendor obligations in connection with the issuance of gift certificates (i.e. gift cards). The focal point is: "A person engaged in the retail sale of goods or services shall not sell a gift certificate to a consumer that expires within a period of less than five years."

The effective date of the new law as to the expiration date is November 1, 2008. Therefore, any gift certificates which are issued after the November 1, 2008 date must have a lifespan of at least five years. These Acts were passed under the Michigan Consumer Protection Act and they apply to all retailers, not just restaurants or food service establishments.

The laws also provide additional rules, which are highlighted below:

1. That a seller of a gift card cannot charge or assess an inactivity fee or maintenance charge against a card that is not used within a specific period of time.
2. The seller will be required to accept the remaining value on a card as partial payment towards the purchase.
3. At the time of the purchase of the gift card, the seller must disclose any terms and conditions that apply. Advertising must contain a notice that there are terms and conditions to the issuance of a gift card.
4. The seller cannot alter any term or condition after a certificate is issued.

The Acts, of course, may require restaurants and business operators to change their terms, conditions and use of their cards. The failure to comply with the law can result in either a private cause of action or an action by the Michigan Attorney General.

If you have any questions or require additional information on this topic, please contact any of our attorneys.

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