

State of Connecticut

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Beware of Strangers – and Friends -- Bearing Gift Cards

By Denise L. Nappier

As the gift-giving countdown begins in earnest, Connecticut's consumers would do well to take a deep breath and carefully consider their next step. To their dismay, many people who plunged headlong into "Black Friday" and "Cyber Monday" – the season's two biggest shopping days -- find they still have holes to fill in their gift-giving list. And so they'll join the millions of American shoppers who each year -- exhausted by picking through bins of sweaters or confounded by the tangle of electronic gadgets available – buy gift cards to rescue them from last-minute panic.

But *caveat emptor* ("let the buyer beware") has never had more resonance: some retailers play a cat-and-mouse game with consumers that both devalues the shopper's investment and frustrates the gift's recipient.

Fortunately, Connecticut shoppers can count themselves among the more protected consumers. Since I advocated for Connecticut's Gift Card Law, passed by the state legislature in 2003, retailers can no longer impose expiration dates, dormancy charges or other hidden fees on gift cards sold here. And the vast majority of retailers in our State abide by the law. Some retailers, however, continue to bilk unwary consumers.

Three practices are of special concern. First, some businesses impose expiration dates on gift cards so that when the consumer tries to "cash in" the card by purchasing an item, he or she discovers the card is no longer valid. Second, these retailers sometimes charge "dormancy fees" on unused balances, which essentially penalizes the consumer for having waited too long to shop. In addition, some retailers even charge a service fee when the card is purchased, as well as a fee to call and check the remaining balance, or a replacement fee for lost or stolen gift cards.

One of the most notorious offenders is the Simon Property Group, which owns Crystal Mall in Waterford. For years, Simon has subtracted \$2.50 per card for each month the card was not used, and the company also levied fees of \$7.50 to reactivate an expired card.

For this reason, my office joined efforts with the State Attorney General and the Department of Consumer Protection to put an end to these predatory practices by bringing suit against Simon Property Group. In an October ruling, the U.S. Court of Appeals for the Second District found in our favor and upheld the state's ban on gift card expiration dates and dormancy fees. In upholding the soundness of Connecticut's Gift Card Law, the Court refused to play "Simon Says" and called Simon's bluff by declaring that Simon must abide by the same law other Connecticut retailers have followed since 2003.

The fight is not over, though, given that Simon continues to litigate the issue. So consumers must maintain their vigilance.

While this is a moral victory for the consumer, the law cannot assure, of course, that every retailer complies. Here's where the consumer must be his or her own watchdog – otherwise, "caveat emptor" begins to sound like "carry it empty." According to *Consumer Reports*, American consumers spend a whopping \$100 billion annually on gift cards, and yet one in five recipients never even uses them. This amounts to about \$8 billion a year – about the gross domestic product of Nepal – that goes directly into the retailers' pockets.

So during this season of giving, there are countless ways in which Connecticut's residents can show appreciation for those they love and for those in need. I urge people to consider a donation to a worthy charity in a loved one's name. But if a gift card becomes the gift of choice, consumers should read the fine print carefully and choose wisely so their only surprises are good ones.