

STATE OF NEW YORK

4687

2025-2026 Regular Sessions

IN SENATE

February 11, 2025

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to disclosure of raincheck policies for certain advertised merchandise

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section
2 397-c to read as follows:

3 § 397-c. Disclosure of raincheck policy. 1. For the purposes of this
4 section, the term "raincheck" shall mean a written statement issued by a
5 retailer allowing the purchase of designated merchandise at a previously
6 advertised price.

7 2. A retailer who has adopted as a policy the issuance of rainchecks
8 to consumers for sale of advertised merchandise not available throughout
9 the advertised period shall, clearly and conspicuously post its rain-
10 check policy:

11 (a) in close proximity to the cash register or so situated as to be
12 clearly visible to the buyer at the point of sale;

13 (b) on its website; and

14 (c) in any online or printed advertisements.

15 3. Any raincheck policy adopted and posted by a retailer shall
16 include, but not be limited to, the following information:

17 (a) name, address, and telephone number of the retailer;

18 (b) retailer's website and e-mail address;

19 (c) a statement that reads "any raincheck issued for an advertised
20 item will be honored for sixty days after issuance".

21 4. Any raincheck issued under a policy adopted by a retailer shall
22 include at least the following information:

23 (a) name, address, and telephone number of the issuer;

24 (b) date of issuance;

25 (c) last date that the raincheck can be redeemed;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (d) name, description and quantity desired of the article; and

2 (e) the advertised price.

3 5. The raincheck issued shall contain the following notice:

4 "You may redeem this raincheck for the advertised item described on
5 the other side within sixty days of issuance.

6 You will pay only the advertised price for the item.

7 You are under no obligation to buy the item."

8 6. It shall be unlawful for any retailer who provides a raincheck for
9 any advertised merchandise which is not available for immediate purchase
10 to fail to:

11 (a) clearly and conspicuously post its raincheck policy in accordance
12 with the requirements of subdivision two of this section;

13 (b) honor or satisfy the raincheck within sixty days from the date of
14 issuance, provided that after a good faith effort a retailer cannot
15 procure the advertised merchandise within the sixty day period, the
16 retailer may offer the holder a substantially similar article of the
17 same kind, quality, and price of the original advertised merchandise; or

18 (c) give written notice via mail or e-mail or notice by phone to the
19 holder of any raincheck when the merchandise is available and inform the
20 holder of the raincheck that the advertised merchandise will be held for
21 a period of no less than ten days from the date of notification, or to
22 the end of the sixty day period for which the raincheck is valid, which-
23 ever is longer.

24 7. It shall be an affirmative defense to an alleged violation of this
25 section that the seller was unable to honor a raincheck within the
26 redemption period because such seller did not receive a reorder of the
27 advertised article from a supplier through no fault of the seller
28 provided, however, that the seller must maintain records sufficient to
29 show that the advertised sale items were reordered in adequate time for
30 delivery and in sufficient quantity to fulfill raincheck obligations.

31 8. A violation of this section shall be punishable by a civil penalty
32 not to exceed two hundred fifty dollars.

33 9. This section shall not apply to a purchase for resale.

34 10. Nothing in this section shall be construed to relieve the seller
35 from any other provision of law prohibiting the advertising of goods or
36 services with the intent not to meet reasonably expected demand.

37 11. No purchaser shall be required to prepay the purchase price or any
38 part thereof in order to obtain a raincheck.

39 12. Nothing in this section shall be construed to restrict the power
40 of any county, city, town or village to adopt and enforce additional
41 local laws, ordinances, or regulations which exceed the minimum applica-
42 ble standards in this section.

43 § 2. This act shall take effect on the one hundred eightieth day after
44 it shall have become a law.