

7562

2009-2010 Regular Sessions

I N A S S E M B L Y

April 14, 2009

Introduced by M. of A. PHEFFER, EDDINGTON, STIRPE, KOON, ALESSI, SPANO, RUSSELL, RAMOS, FIELDS, MILLMAN -- Multi-Sponsored by -- M. of A. BING, CASTRO, COOK, CYMBROWITZ, DeLMONTE, DINOWITZ, GABRYSZAK, GLICK, GORDON, GOTTFRIED, HOOPER, HYER-SPENCER, JAFFEE, MAISEL, MAYERSOHN, McENENY, REILLY, ZEBROWSKI -- (at request of the Consumer Protection Board) -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to requiring greater disclosure by stores of their refund policies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Sections 217 and 218-a of the general business law, section  
2 217 as added by chapter 1005 of the laws of 1960 and section 218-a as  
3 added by chapter 870 of the laws of 1977, are amended to read as  
4 follows:

5 S 217. Definition. [For the purpose of] AS USED IN this article, THE  
6 FOLLOWING WORDS AND PHRASES SHALL HAVE THE FOLLOWING MEANINGS:

7 1. [the term "retail"] "RETAIL mercantile establishment" shall mean a  
8 place where goods, wares or merchandise are offered to the public for  
9 sale.

10 2. "RESTOCKING FEE" SHALL MEAN ANY AMOUNT CHARGED BY A SELLER FOR  
11 ACCEPTING RETURNED MERCHANDISE AND PAYING A REFUND OR CREDIT.

12 S 218-a. Disclosure of refund policies. 1. Every retail mercantile  
13 establishment shall conspicuously post, in the following manner, its  
14 refund policy as to all goods, wares or merchandise offered to the  
15 public for sale:

16 (a) on a sign attached to the item itself; or

17 (b) on a sign affixed to each cash register or point of sale; or

18 (c) on a sign so situated as to be clearly visible to the buyer from  
19 the cash register; or

20 (d) on a sign posted at each store entrance used by the public.

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

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1 2. The sign, required by subdivision one of this section to be posted  
2 in every retail mercantile establishment, shall (A) state whether or not  
3 it is the policy of such establishment to give refunds and, if so, under  
4 what conditions, including but not limited to whether a refund will be  
5 given:

6 [(a)] (I) on merchandise which had been advertised as "sale" merchan-  
7 dise or marked "as is;"

8 [(b)] (II) on merchandise for which no proof of purchase exists;

9 [(c)] (III) at any time or not beyond a point in time specified; [or

10 (d)] (IV) in cash, or as credit or store credit only; OR

11 (V) SUBJECT TO ANY FEES, INCLUDING A RESTOCKING FEE, AND THE DOLLAR OR  
12 PERCENTAGE AMOUNT OF EACH FEE; AND

13 (B) ADVISE CONSUMERS THAT THEY ARE ENTITLED TO A WRITTEN COPY OF THE  
14 STORE'S REFUND POLICY UPON REQUEST.

15 3. Enforcement. Any retail mercantile establishment which violates any  
16 provision of this section shall be liable, for a period of up to [twen-  
17 ty] THIRTY days from the date of purchase, to the buyer for a cash  
18 refund or a credit, at the buyer's option, provided that the merchandise  
19 has not been used or damaged by the buyer AND THE BUYER CAN VERIFY THE  
20 DATE OF THE PURCHASE WITH A RECEIPT OR ANY OTHER PURCHASE VERIFICATION  
21 METHOD UTILIZED BY THE RETAIL MERCHANT.

22 4. [The provisions of subdivision one shall not apply to retail  
23 mercantile establishments or departments that have a policy of provid-  
24 ing, for a period of not less than twenty days after the date of  
25 purchase, a cash refund for a cash purchase or providing a cash refund  
26 or issuing a credit for a credit purchase, which credit is applied to  
27 the account on which the purchase was debited, in connection with the  
28 return of its unused and undamaged merchandise.

29 5.] Preemption. This section does not relieve any person, firm, corpo-  
30 ration or association subject to the provisions of this section from  
31 complying with any law, ordinance, rule or regulation of any locality  
32 relating to the posting of refund policies which affords the buyer  
33 greater protection than do the provisions of this section.

34 S 2. This act shall take effect on the one hundred twentieth day after  
35 it shall have become a law.