S T A T E O F N E W Y O R K

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I N A S S E M B L Y

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Introduced by M. of A. P. RIVERA, RAMOS, ARROYO, N. RIVERA, J. RIVERA, POWELL, PERALTA, V. LOPEZ, ORTIZ, ESPAILLAT, COLTON, FIELDS, CALHOUN, CLARK -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, BENEDETTO, CROUCH, GALEF, GOTTFRIED, GUNTHER, HOOPER, JACOBS, LANCMAN, MAISEL, MARKEY, McENENY, McKEVITT, PEOPLES, PERRY, REILLY, SALADINO, SPANO, SWEENEY, TITUS, TOWNS, TOWNSEND, WALKER, WEISENBERG -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to prohibiting retail mercantile establishments from requiring a buyer, who has the original sales receipt, to produce identification in order to receive a refund for or exchange returned merchandise; and to amend the executive law, in relation to establishing a statewide register of refund and exchange violations

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

Section 1. The general business law is amended by adding a new section 219 to read as follows:

S 219. REFUNDS AND EXCHANGES. 1. NO RETAIL MERCANTILE ESTABLISHMENT SHALL REQUIRE ANY BUYER TO PRODUCE OR PROVIDE ANY FORM OF IDENTIFICATION OR ANY OTHER PROOF OF IDENTITY OR PURCHASE FOR THE PURPOSE OF RECEIVING A REFUND FOR OR EXCHANGE OF RETURNED GOODS, WARES OR MERCHANDISE IF THE BUYER PROVIDES SUCH ESTABLISHMENT WITH:

(A) THE ORIGINAL RECEIPT FOR THE SALE OF THE GOODS, WARES OR MERCHANDISE, WHEN PAYMENT THEREFOR WAS MADE IN CASH;

(B) THE ORIGINAL RECEIPT FOR THE SALE OF THE GOODS, WARES OR MERCHANDISE AND THE CREDIT CARD OR DEBIT CARD USED FOR THE PURCHASE, WHEN SUCH PURCHASE WAS MADE BY MEANS OF A CREDIT CARD OR DEBIT CARD; OR

(C) THE ORIGINAL RECEIPT FOR THE SALE OF THE GOODS, WARES OR MERCHANDISE AND A COPY OF THE CHECK, DRAFT OR MONEY ORDER USED FOR THE PURCHASE, WHEN SUCH PURCHASE WAS MADE BY MEANS OF A CHECK, DRAFT OR MONEY ORDER.

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

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2. IN THE EVENT THAT A BUYER SEEKS TO RECEIVE A REFUND FOR OR EXCHANGE OF RETURNED GOODS, WARES OR MERCHANDISE FROM A RETAIL MERCANTILE ESTABLISHMENT AND SUCH BUYER CANNOT PROVIDE THE RETAIL MERCANTILE ESTABLISHMENT WITH THE ORIGINAL RECEIPT FOR THE SALE THEREOF, THE RETAIL MERCANTILE ESTABLISHMENT MAY REQUIRE THE BUYER TO PROVIDE IDENTIFICATION IN THE SAME FORM AS IS REQUIRED BY PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION 8-303 OF THE ELECTION LAW.

3. WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION AN APPLICATION SHALL BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH VIOLATIONS; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS SECTION, AN INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITUTION. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS SECTION HAS OCCURRED, THE COURT SHALL IMPOSE A CIVIL PENALTY OF TWO THOUSAND FIVE HUNDRED DOLLARS FOR THE FIRST SUCH VIOLATION, A CIVIL PENALTY OF FIVE THOUSAND DOLLARS FOR THE SECOND SUCH VIOLATION WITHIN FIVE YEARS, AND A CIVIL PENALTY OF TWENTY-FIVE THOUSAND DOLLARS FOR THE THIRD OR ANY SUBSEQUENT VIOLATION WITHIN FIVE YEARS. IN CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE RELEVANT FACTS AND ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

S 2. The executive law is amended by adding a new section 75 to read as follows:

S 75. STATEWIDE REGISTER OF REFUND AND EXCHANGE VIOLATIONS. THE DEPARTMENT OF LAW SHALL ESTABLISH, MAINTAIN AND MAKE AVAILABLE TO THE PUBLIC A REGISTER OF THE NAMES AND ADDRESSES OF RETAIL MERCANTILE ESTABLISHMENTS WHICH HAVE VIOLATED THE PROVISIONS OF SECTION TWO HUNDRED NINETEEN OF THE GENERAL BUSINESS LAW WITHIN THE PREVIOUS FIVE YEARS. SUCH REGISTER SHALL ALSO INCLUDE THE DATE OF THE VIOLATION BY SUCH AN ESTABLISHMENT AND THE AMOUNT OF THE CIVIL PENALTY IMPOSED THEREFOR. THE DEPARTMENT OF LAW SHALL MAKE SUCH REGISTER AVAILABLE ON ITS INTERNET WEBSITE.

S 3. This act shall take effect on the thirtieth day after it shall have become a law.