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

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. PERRY -- Multi-Sponsored by -- M. of A. AUBRY, CLARK, DelMONTE, GREENE, LATIMER, MAYERSOHN, McENENY, MENG, MILLMAN, J. RIVERA, TOWNS, WRIGHT -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to public notification of tracking return policy

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

Section 1. Section 218-a of the general business law, as added by chapter 870 of the laws of 1977, is amended to read as follows:

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

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

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

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

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

2. The sign, required by subdivision one of this section to be posted in every retail mercantile establishment, shall state whether or not it is the policy of such establishment to ACCEPT RETURNS AND/OR TO give refunds and, if so, under what conditions, including but not limited to:

(A) whether a refund will be given:

[(a)] (I) on merchandise which had been advertised as "sale" merchandise or marked "as is;"

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

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

[(d)] (IV) in cash, or as credit or store credit only; AND

(B) WHETHER A RETURN OF MERCHANDISE WILL BE ACCEPTED OR REJECTED:

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

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(I) UNDER ANY OF THE CONDITIONS PROVIDED IN PARAGRAPH (A) OF THIS SUBDIVISION; AND

(II) DUE TO A RETAIL ESTABLISHMENT'S POLICY OF ELECTRONICALLY TRACKING THE FREQUENCY AND VOLUME OF AN INDIVIDUAL BUYER'S RETURN OF UNUSED OR UNDAMAGED MERCHANDISE.

3. [Enforcement.] IF A RETURN OF MERCHANDISE IS REJECTED, SUCH ENTITY RESPONSIBLE FOR ELECTRONICALLY TRACKING SUCH RETURNS, AS PROVIDED IN SUBDIVISION TWO OF THIS SECTION, SHALL FORWARD TO THE INDIVIDUAL BUYER, WITHIN FIFTEEN DAYS, A STATEMENT OF REJECTION, WHICH SHALL INCLUDE: (A) THE BASIS FOR REJECTING A RETURN OF MERCHANDISE; (B) A COPY OF THE INDIVIDUAL BUYER'S RETURN ACTIVITY REPORT; AND (C) NOTICE OF THE OPPORTUNITY TO CONTEST AND APPEAL SUCH REJECTION IF INITIATED WITHIN SIXTY DAYS FROM THE DATE OF RECEIPT OF SUCH STATEMENT OF REJECTION.

4. Any retail mercantile establishment which violates any provision of this section shall be liable, for a period of up to [twenty] THIRTY days from the date of purchase, to the buyer for a cash refund or a credit, at the buyer's option, provided that the merchandise has not been used or damaged by the buyer.

[4.] 5. The provisions of subdivision one OF THIS SECTION shall not apply to retail mercantile establishments or departments that have a policy of:

(A) NOT ELECTRONICALLY TRACKING THE FREQUENCY AND VOLUME OF AN INDIVIDUAL BUYER'S RETURN OF UNUSED OR UNDAMAGED MERCHANDISE; AND

(B) providing, for a period of not less than twenty days after the date of purchase, a cash refund for a cash purchase or providing a cash refund or issuing a credit for a credit purchase, which credit is applied to the account on which the purchase was debited, in connection with the return of its unused and undamaged merchandise.

[5. Preemption.] 6. This section does not relieve any person, firm, corporation or association subject to the provisions of this section from complying with any law, ordinance, rule or regulation of any locality relating to the posting of refund policies which affords the buyer greater protection than do the provisions of this section.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.