

3404

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:

1 Section 1. Section 218-a of the general business law, as added by
2 chapter 870 of the laws of 1977, is amended to read as follows:
3 S 218-a. Disclosure of RETURN AND refund policies. 1. Every retail
4 mercantile establishment shall conspicuously post, in the following
5 manner, its RETURN AND refund [policy] POLICIES as to all goods, wares
6 or merchandise offered to the public for sale:
7 (a) on a sign attached to the item itself; or
8 (b) on a sign affixed to each cash register or point of sale; or
9 (c) on a sign so situated as to be clearly visible to the buyer from
10 the cash register; [or] AND
11 (d) on a sign posted at each store entrance used by the public.
12 2. The sign, required by subdivision one of this section to be posted
13 in every retail mercantile establishment, shall state whether or not it
14 is the policy of such establishment to ACCEPT RETURNS AND/OR TO give
15 refunds and, if so, under what conditions, including but not limited to:
16 (A) whether a refund will be given:
17 [(a)] (I) on merchandise which had been advertised as "sale" merchandise
18 or marked "as is;"
19 [(b)] (II) on merchandise for which no proof of purchase exists;
20 [(c)] (III) at any time or not beyond a point in time specified; or
21 [(d)] (IV) in cash, or as credit or store credit only; AND
22 (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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1 (I) UNDER ANY OF THE CONDITIONS PROVIDED IN PARAGRAPH (A) OF THIS
2 SUBDIVISION; AND

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

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

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

19 [4.] 5. The provisions of subdivision one OF THIS SECTION shall not
20 apply to retail mercantile establishments or departments that have a
21 policy of:

22 (A) NOT ELECTRONICALLY TRACKING THE FREQUENCY AND VOLUME OF AN INDI-
23 VIDUAL BUYER'S RETURN OF UNUSED OR UNDAMAGED MERCHANDISE; AND

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

29 [5. Preemption.] 6. This section does not relieve any person, firm,
30 corporation or association subject to the provisions of this section
31 from complying with any law, ordinance, rule or regulation of any local-
32 ity 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 sixtieth day after it shall
35 have become a law.