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

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2009-2010 Regular Sessions

I N S E N A T E

March 31, 2009

Introduced by Sen. ADAMS -- (at request of the Consumer Protection Board) -- 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 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:

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

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

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

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

S 218-a. Disclosure of refund policies. 1. Every retail mercantile establishment shall conspicuously post, in the following manner, its refund policy 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

(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 (A) state whether or not it is the policy of such establishment to give refunds and, if so, under

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

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what conditions, including but not limited to 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; OR

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

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

3. Enforcement. 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 AND THE BUYER CAN VERIFY THE DATE OF THE PURCHASE WITH A RECEIPT OR ANY OTHER PURCHASE VERIFICATION METHOD UTILIZED BY THE RETAIL MERCHANT.

4. [The provisions of subdivision one shall not apply to retail mercantile establishments or departments that have a policy of 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. 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 one hundred twentieth day after it shall have become a law.