

3762

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:

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.

21 2. The sign, required by subdivision one of this section to be posted
22 in every retail mercantile establishment, shall (A) state whether or not
23 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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1 what conditions, including but not limited to whether a refund will be
2 given:

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

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

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

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

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

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

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

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

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

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