

ASSEMBLY, No. 699

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman ZISA and Assemblywoman WEINBERG

1 AN ACT concerning rainchecks on certain merchandise and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. This act shall be known and may be cited as the "Raincheck
8 Policy Disclosure Act."

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10 2. As used in this act:

11 "Advertised" means any attempt, other than by use of a price tag,
12 catalogue or any offering for sale of a motor vehicle, to directly or
13 indirectly induce the purchase or rental of merchandise at retail,
14 appearing in any newspaper, magazine, periodical, circular, in-store or
15 out-of-store sign or other written matter placed before the consuming
16 public, or in any radio or television broadcast.

17 "Merchandise" means any objects, wares, merchandise,
18 commodities, services or anything offered directly or indirectly to the
19 public for sale or rental at retail.

20 "Raincheck" means a written statement issued by a retail mercantile
21 establishment allowing the purchase of designated merchandise at a
22 previously advertised price.

23 "Retail mercantile establishment" means any place of business
24 where merchandise is exposed or offered for sale at retail to members
25 of the consuming public.

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27 3. Every retail mercantile establishment which issues rainchecks to
28 consumers for the sale of advertised merchandise that is not available
29 throughout the advertised period shall conspicuously post its raincheck
30 policy on a sign in at least one of the following locations:

31 a. Affixed to each cash register or location of the point of sale;

32 b. So situated as to be clearly visible to the buyer from the cash
33 register;

34 c. Posted at each store entrance used by the public; or

35 d. On a label attached to the item of merchandise.

1 4. It shall be an unlawful practice for any retail mercantile
2 establishment which provides a raincheck for any advertised
3 merchandise that is not available for immediate purchase to fail to:

4 a. Honor or satisfy that raincheck within 60 days of issuance,
5 unless an extension of such time period is agreed to by the holder of
6 the raincheck, provided that if after a good faith effort a retail
7 mercantile establishment cannot procure for the holder of the
8 raincheck the advertised merchandise within the 60-day period, the
9 retail mercantile establishment may offer the holder of the raincheck
10 a different item of merchandise of substantially the same kind and
11 quality; and

12 b. For all merchandise with an advertised price greater than \$15
13 per unit, give written or telephonic notice to the holder of the
14 raincheck when the merchandise is available and hold the merchandise
15 for a reasonable time after giving notice; and

16 c. Offer a raincheck to all customers who are unable, due to the
17 unavailability of the merchandise, to purchase the advertised
18 merchandise during the period of time that the merchandise has been
19 advertised as available for sale.

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21 5. The Director of the Division of Consumer Affairs in the
22 Department of Law and Public Safety may promulgate regulations
23 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
24 (C.52:14B-1 et seq.) to effectuate the provisions of this act.

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26 6. This act shall take effect on the 180th day following enactment.

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STATEMENT

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31 This bill provides that every retail mercantile establishment which
32 issues rainchecks for the sale of advertised merchandise that is not
33 available throughout the advertised period shall conspicuously post a
34 sign to inform customers of that policy. As defined in the bill,
35 "raincheck" means a written statement issued by a retail mercantile
36 establishment allowing the purchase of designated merchandise at a
37 previously advertised price.

38 The bill makes it an unlawful practice for any retail mercantile
39 establishment which provides a raincheck for an advertised item that
40 is not available for immediate purchase to fail to:

41 a. Honor or satisfy that raincheck within 60 days of issuance unless
42 an extension of the time period is agreed to by the holder of the
43 raincheck, provided that if after a good faith effort a retail mercantile
44 establishment cannot procure for the holder of the raincheck the
45 advertised item within the 60-day period, the retail mercantile
46 establishment may offer the holder of the raincheck a different item of

1 merchandise of substantially the same kind and quality; and

2 b. Give written or telephonic notice to the holder of the raincheck
3 when the merchandise is available and hold the merchandise for a
4 reasonable time after giving notice, for all merchandise with an
5 advertised price greater than \$15 per unit; and

6 c. Offer a raincheck to all customers who are unable, due to the
7 unavailability of the merchandise, to purchase the advertised
8 merchandise during the period of time that the merchandise has been
9 advertised as available for sale.

10 Anyone who commits an unlawful practice by violating a provision
11 of this bill shall be subject to consumer fraud act penalties of not more
12 than \$7,500 for a first offense and not more than \$15,000 for each
13 subsequent offense. As a supplement to the consumer fraud act, the
14 bill makes use of the existing civil suit and enforcement provisions of
15 that act to deter unlawful practices as defined in the bill.

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20 The "Raincheck Policy Disclosure Act."