

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 436 Session of 2011

INTRODUCED BY M. SMITH, BISHOP, BRADFORD, BRENNAN, V. BROWN,
CALTAGIRONE, D. COSTA, DeLUCA, DePASQUALE, FABRIZIO, FRANKEL,
FREEMAN, HALUSKA, JOSEPHS, MATZIE, MILLARD, O'NEILL,
READSHAW, SANTARSIERO, K. SMITH AND YOUNGBLOOD,
FEBRUARY 3, 2011

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 3, 2011

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, prohibiting deception relating to
3 rebates for consumer goods; and imposing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 18 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 4107.3. Deception relating to rebates for consumer goods.

9 (a) Rebate advertising.--A person commits an offense if, in
10 the course of business, the person advertises the availability
11 of a manufacturer's rebate by displaying the net price of the
12 advertised item in the advertisement, unless the amount of the
13 manufacturer's rebate is provided to the consumer by the
14 retailer at the time of purchase of the advertised item. A
15 person shall not be required to provide the purchaser of an
16 advertised product with the amount of the manufacturer's rebate
17 if the advertisement states that a manufacturer's rebate is

1 available without stating the net price of the product.

2 (b) Rebate response.--Except as provided under subsection
3 (c), a person who offers a rebate shall mail the amount of the
4 rebate to the consumer or electronically pay the consumer the
5 amount of the rebate within the time period promised in the
6 rebate information provided to the consumer, or if the time
7 period is not specified, no later than the 30th day after the
8 date the person receives a properly completed rebate request.

9 (c) Rebate for continuing service.--If a consumer rebate
10 offer is contingent on the consumer continuing to purchase a
11 service for a minimum length of time, the time period under
12 subsection (b) shall begin on the later of:

13 (1) the date the consumer submits the rebate request; or

14 (2) the expiration date of the service period.

15 (d) Incomplete rebate request.--

16 (1) If a person offering a rebate receives a rebate
17 request that is timely submitted but not properly completed,
18 the person shall:

19 (i) process the rebate in the manner provided under
20 subsection (b) as if the rebate request were properly
21 completed; or

22 (ii) notify the consumer, no later than the date
23 specified under subsection (b), of the reasons that the
24 rebate request is not properly completed and the
25 consumer's right to correct the deficiency within 30 days
26 after the date of the notification. The notification must
27 be by mail, except that notification may be by e-mail if
28 the consumer has agreed to be notified by e-mail.

29 (2) If the consumer corrects the deficiency stated in
30 the notification under subparagraph (ii) before the 31st day

1 after the postmark date of the person's mailed notification
2 to the consumer or the date the e-mail notification is
3 received, the person shall process the rebate in the manner
4 provided under subsection (b) for a properly completed
5 request.

6 (3) This subsection shall not impose an obligation to
7 pay a rebate to a consumer who is not eligible under the
8 terms and conditions of the rebate offer or has not satisfied
9 all of the terms and conditions of the rebate offer, if the
10 person offering the rebate has otherwise complied with this
11 subsection.

12 (e) Rejection of rebate.--

13 (1) A person offering a rebate has the right to reject a
14 rebate request from a consumer who the person determines:

15 (i) is attempting to commit fraud;

16 (ii) has already received the offered rebate; or

17 (iii) is submitting proof of purchase that is not
18 legitimate.

19 (2) A person making a determination under paragraph (1)
20 shall notify the consumer within the time period provided
21 under subsection (b) that the person is considering rejecting
22 or has rejected the rebate request and shall instruct the
23 consumer of any actions that the consumer may take to cure
24 the deficiency.

25 (3) If the person offering a rebate erroneously rejects
26 a properly completed rebate request, the person shall pay the
27 consumer as soon as practicable, but no later than 30 days
28 after the date the person learns of the error.

29 (f) Agents.--For the purposes of this section, if a person
30 who offers a rebate uses an independent entity to process a

1 rebate, an act of the entity is considered to be an act of the
2 person, and receipt of a rebate request by the entity is
3 considered receipt of the request by the person.

4 (g) Penalty.--A violation of this section is a deceptive
5 trade practice under section 4107 (relating to deceptive or
6 fraudulent business practices) and shall be punishable under the
7 provisions of that section.

8 (h) Definitions.--As used in this section, the following
9 words and phrases shall have the meanings given to them in this
10 subsection unless the context clearly indicates otherwise:

11 "Consumer." A person who obtains a product or service that
12 is to be used primarily for personal, business, family or
13 household purposes.

14 "Consumer rebate." An offer to a consumer of cash, credit or
15 credit toward future purchases that is made in connection with a
16 sale of a good or service to the consumer, is in an amount of \$5
17 or more and requires the consumer to mail or electronically
18 submit a rebate request after the sale is completed. The term
19 does not include:

20 (1) A promotion or incentive that is offered by a
21 manufacturer to another company or organization that is not
22 the consumer to help promote or place the product or service.

23 (2) A rebate that is redeemed at the time of purchase.

24 (3) A discount, cash, credit or credit toward a future
25 purchase that is automatically provided to a consumer without
26 the need to submit a request for redemption.

27 (4) A rebate that is applied to a bill that the consumer
28 becomes obligated to pay after the date the purchase is made.

29 (5) A refund that may be given to a consumer in
30 accordance with a manufacturer's or retailer's return,

1 guarantee, adjustment or warranty policies.

2 (6) A manufacturer's or retailer's frequent shopper
3 customer reward program.

4 "Net price." The price a consumer would pay for consumer
5 goods after redemption of the rebate offered for the consumer
6 goods.

7 "Person." A natural person, corporation, trust, partnership,
8 incorporated or unincorporated association and any other legal
9 entity.

10 "Product." A good, service or other tangible or intangible
11 property of any kind.

12 "Properly completed." When a consumer has submitted the
13 required information and documentation in the manner and by the
14 deadline specified in a rebate offer and has otherwise satisfied
15 the terms and conditions of the rebate offer.

16 Section 2. This act shall take effect in 60 days.