

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 92 Session of 2011

INTRODUCED BY GREENLEAF, TARTAGLIONE, ERICKSON, KASUNIC,
RAFFERTY, BREWSTER AND STACK, JANUARY 12, 2011

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
JANUARY 12, 2011

AN ACT

1 Amending the act of December 17, 1968 (P.L.1224, No.387),
2 entitled "An act prohibiting unfair methods of competition
3 and unfair or deceptive acts or practices in the conduct of
4 any trade or commerce, giving the Attorney General and
5 District Attorneys certain powers and duties and providing
6 penalties," further defining "unfair or deceptive acts or
7 practices"; and further providing for unlawful acts or
8 practices.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 2(4) of the act of December 17, 1968
12 (P.L.1224, No.387), known as the Unfair Trade Practices and
13 Consumer Protection Law, reenacted and amended November 24, 1976
14 (P.L.1166, No.260), is amended by adding subclauses to read:

15 Section 2. Definitions.--As used in this act.

16 * * *

17 (4) "Unfair methods of competition" and "unfair or deceptive
18 acts or practices" mean any one or more of the following:

19 * * *

20 (xxi.1) Failing to disclose to members of the consuming

public a retail establishment's refund and exchange policy as to
all merchandise exposed or offered for sale at retail, unless
the policy is clearly and conspicuously posted in the following
manner:

(A) on a sign attached to the merchandise itself;

(B) on a sign affixed to each cash register or point of
sale;

(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 members
of the consuming public.

The sign shall conspicuously disclose any and all material
conditions of, or qualifications to, the policy, including,
without limitation: whether a refund will be given on
merchandise for which no proof of purchase exists; whether a
refund will be given at any time, or only up to a specified time
after the date of purchase; and whether a refund will be given
in cash, as a credit to the account on which the purchase was
debited or as a store credit only.

(xxi.2) Failing to disclose to members of the consuming
public that a retail establishment charges a restocking fee on a
product it sells, unless the retail establishment:

(A) discloses in any print advertising and promotional
material, including a catalog, that a restocking fee may apply
to the purchase of goods, and the disclosure is printed in a
clear and conspicuous manner in the advertising and promotional
material;

(B) posts a notice stating that a restocking fee may apply
to the purchase of goods and where the customer may obtain the
full restocking fee policy and makes the notice clearly and

conspicuously visible to the customer before purchase;

(C) discloses on the sales receipt in a conspicuous manner in type at least as large as the majority of the printed text on the receipt and in print that is clear and legible, both of the following:

(i) that a restocking fee may apply to the purchased good; and

(ii) where the customer may obtain the full restocking fee policy; and

(D) at the point of purchase for a good on the Internet website of the retail establishment, discloses that a restocking fee may apply to the purchase of goods. The retail establishment shall provide the full restocking fee policy on the Internet website in a clear and conspicuous manner.

Section 2. Section 3 of the act, amended November 29, 2006 (P.L.1624, No.185), is amended to read:

Section 3. Unlawful Acts or Practices; Exclusions.--Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce as defined by [subclauses (i) through (xxi) of] clause (4) of section 2 of this act and regulations promulgated under section 3.1 of this act are hereby declared unlawful. The provisions of this act shall not apply to any owner, agent or employe of any radio or television station, or to any owner, publisher, printer, agent or employe of an Internet service provider or a newspaper or other publication, periodical or circular, who, in good faith and without knowledge of the falsity or deceptive character thereof, publishes, causes to be published or takes part in the publication of such advertisement.

Section 3. This act shall take effect in 60 days.