

56:8-2.14 to 56:8-2.21

LEGISLATIVE HISTORY CHECKLIST

("Refund Policy Disclosure Act"--
requires posting in retail stores)

NJSA 56:8-2.14 to 56:8-2.21

LAWS 1982

CHAPTER 29

Bill No. A572

Sponsor(s) Riley and Baer

Date Introduced Pre-filed

Committee: Assembly

Labor, Industry and Professions

Senate

Amended during passage

Yes

~~No~~

Amendments during passage
denoted by asterisks

Date of Passage: Assembly Feb. 8, 1982

Senate March 15, 1982

Date of approval April 30, 1982

Following statements are attached if available:

Sponsor statement

Yes

~~No~~

Committee Statement: Assembly

~~Yes~~

No

Senate

Yes

~~No~~

Fiscal Note

~~Yes~~

No

Veto Message

~~Yes~~

No

Message on signing

Yes

~~Yes~~

~~No~~

Following were printed:

Reports

~~Yes~~

No

Hearings

~~Yes~~

No

Regulations promulgated by Division of Consumer Affairs (as mentioned in Senate statement):

N.J.A.C. 13:45A-15.1--13:45A-15.4 (proposed at 13 NJR 665 (a); adopted 1-19-82 as R.1982, d.29)

A. 304 passed both houses during 1980-81 Legislative Session, and was pocket vetoed by Governor Byrne on 1-12-82

6/22/81

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 572

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblymen RILEY and BAER

A SUPPLEMENT to "An act concerning consumer fraud, its prevention, and providing penalties therefor," approved June 9, 1960 (P. L. 1960, c. 39, C. 56:8-1 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Refund
2 Policy Disclosure Act."

1 2. As used in this act:

2 a. "Merchandise" means any objects, wares, goods, commodi-
3 ties, or any other tangible items offered, directly or indirectly, to
4 the public for sale.

5 b. "Proof of purchase" means a receipt, bill, credit card slip,
6 or any other form of evidence which constitutes reasonable proof
7 of purchase.

8 c. "Retail mercantile establishment" means any place of busi-
9 ness where merchandise is exposed or offered for sale at retail
10 to members of the consuming public.

1 3. Every retail mercantile establishment shall conspicuously
2 post its refund policy as to all merchandise on a sign in at least
3 one of the following locations:

4 a. Attached to the item itself or,

5 b. Affixed to each cash register or point of sale or,

6 c. So situated as to be clearly visible to the buyer from the
7 cash register or,

8 d. Posted at each store entrance used by the public.

1 4. Any sign required by section 3 of this act to be posted in

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate committee amendment adopted March 1, 1982.**

2 retail mercantile establishments, shall state whether or not it is
3 a policy of such establishment to give refunds and, if so, under
4 what conditions, including but not limited to whether a refund will
5 be given:

6 a. On merchandise which has been advertised as "sale" mer-
7 chandise or marked "as is";

8 b. On merchandise for which no proof of purchase exists,

9 c. At any time or not beyond a point in time specified; or

10 d. In cash, or as credit or store credit only.

1 5. A retail mercantile establishment violating any provision of
2 this act shall be liable to the buyer, for up to 20 days from the
3 date of purchase, for a cash refund or a credit, at the buyers option,
4 provided that the merchandise has not been used or damaged by
5 the buyer.

1 6. The provisions of section 3 shall not apply to retail mer-
2 cantile establishments or departments that have a policy of pro-
3 viding, for a period of not less than 20 days after the date of
4 purchase, a cash refund for a cash purchase or providing a cash
5 refund or issuing a credit for a credit purchase, which credit is
6 applied to the account on which the purchase was debited, in
7 connection with the return of its unused and undamaged
8 merchandise.

1 7. This act shall not apply to sales of **motor vehicles or** perish-
2 ables and incidentals to such perishables, or to custom ordered,
3 custom finished merchandise, or merchandise not returnable by
4 law.

1 8. a. An individual action for a violation of this act may be
2 brought in a municipal court in whose jurisdiction the sale was
3 made.

4 b. In addition to the penalties provided for in section 5 a retail
5 mercantile establishment that fails to comply with the requirements
6 of this act and, in practice, does not have a policy as provided in
7 section 6 and has refused to accept the return of the merchandise,
8 shall be liable to the consumer for:

9 (1) A cash refund or a credit, at the buyers option, provided
10 the merchandise has not been used or damaged, and,

11 (2) Damages of not more than \$200.00.

1 9. This act shall take effect on the one hundred and eightieth
2 day following enactment.

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3 one of the following locations:

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5 b. Affixed to each cash register or point of sale or,

6 c. So situated as to be clearly visible to the buyer from the
7 cash register or,

8 d. Posted at each store entrance used by the public.

1 4. Any sign required by section 3 of this act to be posted in
2 retail mercantile establishments, shall state whether or not it is
3 a policy of such establishment to give refunds and, if so, under
4 what conditions, including but not limited to whether a refund will
5 be given:

6 a. On merchandise which has been advertised as "sale" mer-
7 chandise or marked "as is";

- 8 b. On merchandise for which no proof of purchase exists,
 9 c. At any time or not beyond a point in time specified; or
 10 d. In cash, or as credit or store credit only.

1 5. A retail mercantile establishment violating any provision of
 2 this act shall be liable to the buyer, for up to 20 days from the
 3 date of purchase, for a cash refund or a credit, at the buyers option,
 4 provided that the merchandise has not been used or damaged by
 5 the buyer.

1 6. The provisions of section 3 shall not apply to retail mer-
 2 cantile establishments or departments that have a policy of pro-
 3 viding, for a period of not less than 20 days after the date of
 4 purchase, a cash refund for a cash purchase or providing a cash
 5 refund or issuing a credit for a credit purchase, which credit is
 6 applied to the account on which the purchase was debited, in
 7 connection with the return of its unused and undamaged
 8 merchandise.

1 7. This act shall not apply to sales of perishables and incidentals
 2 to such perishables, or to custom ordered, custom finished mer-
 3 chandise, or merchandise not returnable by law.

1 8. a. An individual action for a violation of this act may be
 2 brought in a municipal court in whose jurisdiction the sale was
 3 made.

4 b. In addition to the penalties provided for in section 5 a retail
 5 mercantile establishment that fails to comply with the requirements
 6 of this act and, in practice, does not have a policy as provided in
 7 section 6 and has refused to accept the return of the merchandise,
 8 shall be liable to the consumer for:

9 (1) A cash refund or a credit, at the buyers option, provided
 10 the merchandise has not been used or damaged, and,

11 (2) Damages of not more than \$200.00.

1 9. This act shall take effect on the one hundred and eightieth
 2 day following enactment.

STATEMENT

This bill would require retailers to disclose their refund policies by posting them in one of the four alternative manners. Posting would have to be done on a sign that is: a. attached to the item, b. affixed to the cash register or point of sale, c. visible from the cash register, or d. posted at each store entrance. The sign would have to state whether the store gives refunds and, if so, specifically whether there are limitations on refunds on "sale" items or items marked "as is." It must also state whether there are limits or refunds for

items for which no proof of purchase exists, whether there is a time limit on refunds, and whether refunds are in cash or as credit or store credit only.

Violators are liable to the purchaser for a full cash or credit refund for any unused or undamaged merchandise. The provisions of section 3 would not apply to retail merchantile establishments that have a policy of providing for at least 20 days from the date of purchase : a. a cash refund for a cash purchase or b. giving a cash refund or issuing a credit for a credit purchase on the debit account. Failure to have such a policy in practice and refusal to accept return of the merchandise makes the retailer liable for providing the full refund or a credit by the purchaser and damages of no more than \$200.00.

Jurisdiction is given to the municipal court in the jurisdiction the sale was made as to the damages for failing to maintain a voluntary retail policy. The bill also gives jurisdiction to the municipal court for failure to maintain signs for those retailers that do not maintain a voluntary program. An amended version of this bill passed the General Assembly in April of 1980.

[SENATE REPRINT]
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2 post its refund policy as to all merchandise on a sign in at least
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8 d. Posted at each store entrance used by the public.

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 3 a policy of such establishment to give refunds and, if so, under
 4 what conditions, including but not limited to whether a refund will
 5 be given:

- 6 a. On merchandise which has been advertised as "sale" mer-
 7 chandise or marked "as is";
- 8 b. On merchandise for which no proof of purchase exists,
- 9 c. At any time or not beyond a point in time specified; or
- 10 d. In cash, or as credit or store credit only.

1 5. A retail mercantile establishment violating any provision of
 2 this act shall be liable to the buyer, for up to 20 days from the
 3 date of purchase, for a cash refund or a credit, at the buyers option,
 4 provided that the merchandise has not been used or damaged by
 5 the buyer.

1 6. The provisions of section 3 shall not apply to retail mer-
 2 cantile establishments or departments that have a policy of pro-
 3 viding, for a period of not less than 20 days after the date of
 4 purchase, a cash refund for a cash purchase or providing a cash
 5 refund or issuing a credit for a credit purchase, which credit is
 6 applied to the account on which the purchase was debited, in
 7 connection with the return of its unused and undamaged
 8 merchandise.

1 7. This act shall not apply to sales of **motor vehicles or** perish-
 2 ables and incidentals to such perishables, or to custom ordered,
 3 custom finished merchandise, or merchandise not returnable by
 4 law.

1 8. a. An individual action for a violation of this act may be
 2 brought in a municipal court in whose jurisdiction the sale was
 3 made.

4 b. In addition to the penalties provided for in section 5 a retail
 5 mercantile establishment that fails to comply with the requirements
 6 of this act and, in practice, does not have a policy as provided in
 7 section 6 and has refused to accept the return of the merchandise,
 8 shall be liable to the consumer for:

- 9 (1) A cash refund or a credit, at the buyers option, provided
 10 the merchandise has not been used or damaged, and,
- 11 (2) Damages of not more than \$200.00.

1 9. This act shall take effect on the one hundred and eightieth
 2 day following enactment.

SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 572
with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 1, 1982

This bill requires retailers to disclose their refund policies on returned merchandise unless they have a refund policy which provides a refund for merchandise returned at least 20 days after the date of purchase.

Those retailers who are required to disclose their refund policy must do it on a sign that is: (a) attached to the item, (b) affixed to the cash register or point of sale, (c) visible from the cash register, or (d) posted at each store entrance. The sign would have to state whether the store gives refunds and, if so, whether there are any limitations, such as the refund policy on "sale" merchandise, whether proof of purchase is needed, what the time limit on returns is, and whether refunds are in cash or credit.

If a retailer violates any provision of this bill, for example by not posting the appropriate sign, he would be liable to the purchaser for a cash refund or a credit on returned merchandise, at the purchaser's option, for a period of 20 days after the purchase. The retailer may also be liable for damages of not more than \$200.00. The provisions of this bill would be enforced by the consumer in a private action brought in a municipal court in the jurisdiction the sale was made.

The provisions of this bill are almost identical to the regulations on "disclosure of refund policy in retail establishments" which were promulgated by the Division of Consumer Affairs and which became effective on February 1, 1982. The regulations are enforced by the Division of Consumer Affairs and the penalties and sanctions available for violations under the "Consumer Fraud Act" apply. On the other hand, the provisions of Assembly Bill No. 572 are enforced by consumers through private actions.

The committee amended the bill to make certain that the sales of new motor vehicles are exempt from the provisions of the bill.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: CARL GOLDEN

APRIL 30, 1982

Legislation to permit municipalities to receive a share of fines for levied motor vehicle offenses was signed into law today by Governor Thomas H. Kean.

The legislation, A-868, was sponsored by Assemblyman John A. Girgenti, D-Passaic, and will result in approximately \$17 million in revenues being distributed to municipalities. The bill is effective January 1, 1983.

Under current law, revenues from fines are remitted to the State's general fund if the summons is issued by a State Police officer. If the summons is issued by a local police officer, the fine money is allocated to the county in which the violation took place and is used to support road maintenance programs.

Under the new law, counties will continue to receive the fine revenue up to the levels attained in 1980. When that level is reached, the money is to be distributed to the municipalities to help defray the cost of operating the municipal court system.

If the fine revenue distributed to municipalities exceeds the amount allocated to the counties in 1980, the excess shall be divided by the counties and municipalities.

Kean also signed ^{A-572}~~A-521~~, sponsored by Assemblyman Dennis Riley, D-Camden, to require retail stores to post a notice of refund policies in their establishments.

The legislation requires that a refund policy notice be posted on the item for sale, affixed to each cash register, posted at the store entrance, or another clearly visible location.

If a retailer refused to post such a notice and refuses a legitimate request for a refund within 20 days of a purchase, a customer may sue in municipal court for a cash refund or credit and damages not to exceed \$200.

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