



P.L. 2006, CHAPTER 59, *approved August 2, 2006*  
Senate, No. 685

1 AN ACT concerning rainchecks on certain merchandise and  
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).  
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:  
6

7 1. This act shall be known and may be cited as the "Raincheck  
8 Policy Disclosure Act."  
9

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  
15 or out-of-store sign or other written matter placed before the  
16 consuming 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  
19 the public for sale or rental at retail.

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

23 "Retail mercantile establishment" means any place of business  
24 where merchandise is exposed or offered for sale at retail to  
25 members of the consuming public.  
26

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

- 32 a. Affixed to a cash register or location of the point of sale;
  - 33 b. So situated as to be clearly visible to the buyer;
  - 34 c. Posted at each store entrance used by the public;
  - 35 d. At the location where the merchandise was offered for sale;
  - 36 e. In an advertisement for merchandise; or
  - 37 f. Printed on the receipt of sale.
- 38

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

- 42 a. Honor or satisfy that raincheck within 60 days of issuance,  
43 unless an extension of such time period is agreed to by the holder of

1 the raincheck, provided that if after a good faith effort a retail  
2 mercantile establishment cannot procure for the holder of the  
3 raincheck the advertised merchandise within the 60-day period, the  
4 retail mercantile establishment may offer the holder of the  
5 raincheck a different item of merchandise of substantially the same  
6 kind, quality and price of the original advertised merchandise; and

7 b. For all merchandise with an advertised price greater than \$15  
8 per unit, give written or telephonic notice to the holder of the  
9 raincheck when the merchandise is available and inform the holder  
10 of the raincheck that the advertised merchandise will be held for a  
11 period of no less than 10 days from the date of notification or to the  
12 end of the 60 day period for which the raincheck is valid, whichever  
13 is longer; and

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

18

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

23

24 6. This act shall take effect on the first day of the seventh month  
25 following enactment.

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30 \_\_\_\_\_  
The "Raincheck Policy Disclosure Act."

# SENATE, No. 685

## STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

**Sponsored by:**  
**Senator LORETTA WEINBERG**  
**District 37 (Bergen)**

### **SYNOPSIS**

The "Raincheck Policy Disclosure Act."

### **CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



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2

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25 members of the consuming public.

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

- 32 a. Affixed to a cash register or location of the point of sale;  
33 b. So situated as to be clearly visible to the buyer;  
34 c. Posted at each store entrance used by the public;  
35 d. At the location where the merchandise was offered for sale;  
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37 f. Printed on the receipt of sale.

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

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

1 kind, quality and price of the original advertised merchandise; and  
2 b. For all merchandise with an advertised price greater than \$15  
3 per unit, give written or telephonic notice to the holder of the  
4 raincheck when the merchandise is available and inform the holder  
5 of the raincheck that the advertised merchandise will be held for a  
6 period of no less than 10 days from the date of notification or to the  
7 end of the 60 day period for which the raincheck is valid, whichever  
8 is longer; and

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

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

18

19 6. This act shall take effect on the first day of the seventh month  
20 following enactment.

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22

23

STATEMENT

24

25 This bill requires any retail mercantile establishment which  
26 issues rainchecks for the sale of advertised merchandise not  
27 available throughout the advertised period to conspicuously post a  
28 sign informing customers of that policy in at least one of several  
29 specified locations. The bill defines "raincheck" as "a written  
30 statement issued by a retail mercantile establishment allowing the  
31 purchase of designated merchandise at a previously advertised  
32 price."

33 In addition, the amended bill makes it an unlawful practice for a  
34 retail mercantile establishment which provides rainchecks for  
35 unavailable advertised items to fail to:

- 36 • Honor or satisfy a raincheck within 60 days of issuance  
37 unless an extension of the time period is agreed to by the  
38 holder of the raincheck, with the provision that, if after a  
39 good faith effort the establishment cannot procure the item  
40 within the 60-day period, it may offer a different item of  
41 substantially the same kind, quality and price as the original  
42 item;
- 43 • Give notice to the holder of a raincheck, for any  
44 merchandise with an advertised price greater than \$15, when  
45 the merchandise is available and inform the holder that the  
46 item will be held for a period of 10 days or until the end of

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- 1           the 60-day period for which the raincheck is valid,  
2           whichever is longer; and
- 3           • Offer a raincheck to all customers who are unable, due to the  
4           unavailability of the merchandise, to purchase an item  
5           during the period of time that the merchandise has been  
6           advertised as available for sale.
- 7           Unlawful practices under the Consumer Fraud Act are  
8           punishable by a monetary penalty of not more than \$10,000 for a  
9           first offense and not more than \$20,000 for any subsequent offense.  
10          In addition, violations can result in cease and desist orders issued  
11          by the Attorney General, the assessment of punitive damages and  
12          the awarding of treble damages and costs to the injured party

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### SENATE, No. 685

# STATE OF NEW JERSEY

DATED: FEBRUARY 9, 2006

This bill requires, under the provisions of the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), that any retail mercantile establishment which issues rainchecks for unavailable advertised merchandise, permitting customers to subsequently purchase the item at the previously advertised price, conspicuously post information of its raincheck policy in at least one of several specified locations, including cash registers, store entrances, or in advertisements for merchandise.

In addition, the bill makes it an unlawful practice for a retail mercantile establishment which provides rainchecks to fail to:

- Honor or satisfy a raincheck within 60 days of issuance, unless an extension of the time period is agreed to by the holder of the raincheck, with the provision that, if after a good faith effort the establishment cannot procure the item within the 60-day period, it may offer a different item of substantially the same kind, quality, and price as the original item;
- Give notice to the holder of a raincheck, for any merchandise with an advertised price greater than \$15, when the merchandise is available and inform the holder that the item will be held for a period of 10 days or until the end of the 60-day period for which the raincheck is valid, whichever is longer; and
- Offer a raincheck to all customers who are unable, due to the unavailability of the merchandise, to purchase an item during the period of time that the merchandise has been advertised as available for sale.

Under the consumer fraud act, an unlawful practice is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to an injured party.

This bill was pre-filed for introduction in the 2006-2007 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.



# ASSEMBLY CONSUMER AFFAIRS COMMITTEE

## STATEMENT TO

### **SENATE, No. 685**

# **STATE OF NEW JERSEY**

DATED: MAY 11, 2006

The Assembly Consumer Affairs Committee reports favorably Senate Bill No. 685.

Senate Bill No. 685 requires, under the provisions of the Consumer Fraud Act, P.L.1960, c.39 (C.56:8-1 et seq.), that any retail mercantile establishment which issues rainchecks for unavailable advertised merchandise, that permit customers to subsequently purchase the item at the previously advertised price, conspicuously post information of its raincheck policy in at least one of several specified locations, including cash registers, store entrances, or in advertisements for merchandise.

In addition, the bill makes it an unlawful practice for a retail mercantile establishment which provides rainchecks to fail to:

- Honor or satisfy a raincheck within 60 days of issuance, unless an extension of the time period is agreed to by the holder of the raincheck, with the provision that, if after a good faith effort the establishment cannot procure the item within the 60-day period, it may offer a different item of substantially the same kind, quality, and price as the original item;
- Give notice to the holder of a raincheck, for any merchandise with an advertised price greater than \$15, when the merchandise is available and inform the holder that the item will be held for a period of 10 days or until the end of the 60-day period for which the raincheck is valid, whichever is longer; and
- Offer a raincheck to all customers who are unable, due to the unavailability of the merchandise, to purchase an item during the period of time that the merchandise has been advertised as available for sale.

Under the Consumer Fraud Act, an unlawful practice is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to an injured party.