

## **BILL ANALYSIS**

Senate Research Center

S.B. 1389  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law does not provide regulation of timeliness for companies providing rebates. Rebates are an increasingly popular method of enticing consumers to purchase a new item. Often, the promised rebate amount equals as much as two-thirds the original price, which in some cases can be worth hundreds of dollars. Many rebate programs have proven to be very successful and beneficial to both the party offering the rebate and the consumer. However, there have been a number of instances in which companies do not meet their obligations and sometimes customers never receive a response to their rebate request. Most companies promise to process the request of a rebate within eight to 10 weeks; however, current law does not provide any remedy for situations in which a consumer does not receive a response or if the consumer is denied the rebate agreed to through the rebate program. Consumers are left with few options and these options can be time-consuming. Currently, consumers can submit their complaint to the Better Business Bureau, the attorney general's office, or both.

S.B. 1389 requires a company that offers a rebate program to provide the rebate to the consumer either electronically or by mail, whichever is applicable. This bill requires such action to be completed within the time period agreed upon by both parties and prohibits a court from certifying such action as a class action. Finally, this bill requires a request for a rebate to be submitted correctly, requires the company to advise the consumer of any errors in a rebate request submission, and allows for a 30-day period within which to correct the errors.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 35, Business & Commerce Code, by adding Section 35.43, as follows:

Sec. 35.43. CONSUMER REBATE RESPONSE AND GRACE PERIOD FOR CORRECTIONS. (a) Defines "consumer," "consumer rebate," and "properly completed."

(b) Requires a person, including a manufacturer or retailer, who offers a rebate to mail the amount of the rebate to the consumer or electronically pay the consumer the amount of the rebate within the time period promised in the rebate information provided to the consumer, or if silent, not later than the 30th day after the date the person receives a properly completed rebate request.

(c) Provides that if a consumer rebate offer is contingent on the consumer continuing to purchase a service for a minimum length of time, the time period in Subsection (b) begins on the later date of the date the consumer submits the rebate request or the expiration date of the service period.

(d) Requires certain actions to be taken if a person offering the rebate receives a rebate request that is timely submitted but not properly completed.

(e) Requires that a notification provided when a rebate request is timely submitted but not properly completed to be by mail, except that the notification is authorized to be sent by e-mail if the consumer has agreed to be notified by e-mail.

(f) Requires a person offering the rebate to process the rebate in the manner provided by Subsection (b) for a properly completed request if the consumer corrects the deficiency stated in the notification under Subsection (d)(2) before the 31st day after the postmark date of the person's mailed notification to the consumer or the date the e-mail is received.

(g) Provides that if the person offering the rebate has complied with Subsections (d) and (e), this section does not impose any obligation on a person to pay a rebate to any consumer who is not eligible under the terms and conditions of the rebate offer or has not satisfied all of the terms and conditions of the rebate offer.

(h) Provides that a person offering a rebate has the right to reject a rebate request from certain consumers.

(i) Requires a person making a determination under Subsection (h) to notify the consumer within the time period provided by Subsection (d) that the person is considering rejecting, or has rejected, the rebate request and instruct the consumer of any actions that the consumer may take to cure the deficiency.

(j) Requires a person offering a rebate, if the person erroneously rejects a properly completed rebate request, to pay the consumer as soon as practicable, but not later than 30 days, after the date the person learns of the error.

(k) Provides that, for the purposes of this section, an act of an independent entity that processes the rebate is considered to be an act of the person and receipt of a rebate request by such an entity is considered receipt of the request by the person.

(l) Provides that a violation of this section is a deceptive trade practice in addition to the practices prescribed by Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17, and is actionable by a consumer under that subchapter. Prohibits claims related to more than one consumer to be joined in a single action brought for an alleged violation of this subchapter (Miscellaneous), unless all parties agree.

(m) Prohibits a court from certifying an action brought under this section as a class action.

(n) Provides that a violation of this section is subject to an action by the office of the attorney general as provided by Section 17.46(a) (relating to unlawful deceptive trade practices).

SECTION 2. Effective date: September 1, 2007.