

By: Castro

H.B. No. 1479

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of retail rebates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Business & Commerce Code, is amended by adding Chapter 51 to read as follows:

CHAPTER 51. REGULATION OF RETAIL REBATES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 51.001. DEFINITIONS. In this chapter:

(1) "Consumer" means a person who purchases a good or service for which a rebate is offered.

(2) "Manufacturer" means a person who produces a good and offers a rebate for the good.

(3) "Rebate" means a refund of a portion of the amount paid by a consumer for a good or service.

(4) "Rebate form" means a form on which a consumer provides information required by the manufacturer or service provider to receive a rebate.

(5) "Retailer" means a person who, as part of the person's business, sells a good or service for which a rebate is offered. The term may include a manufacturer or service provider.

(6) "Service provider" means a person who provides a service and offers a rebate for the service.

[Sections 51.002-51.050 reserved for expansion]

1 SUBCHAPTER B. DUTIES OF RETAILER

2 Sec. 51.051. DISCLOSURE OF TERMS OF REBATE. At the time a
3 consumer purchases a good or service for which a rebate is offered,
4 a retailer shall disclose to the consumer the terms of the rebate in
5 writing in:

6 (1) clear and unambiguous language that would not
7 mislead a reasonable person;

8 (2) at least 10-point type; and

9 (3) a manner that does not obscure the terms of the
10 rebate.

11 Sec. 51.052. PROVISION OF REBATE FORMS. (a) If a retailer
12 offers for sale a good or service for which a rebate is offered, the
13 retailer shall provide to the consumer any required rebate form.

14 (b) A retailer may provide a rebate form to a consumer by:

15 (1) displaying the rebate form in the store where the
16 retailer offers for sale the good or service for which the rebate is
17 offered;

18 (2) delivering the rebate form to the consumer when
19 the consumer purchases the good or service; or

20 (3) providing the consumer with an Internet address at
21 which the rebate form may be downloaded, printed, or completed and
22 electronically submitted to the manufacturer or service provider.

23 [Sections 51.053-51.100 reserved for expansion]

24 SUBCHAPTER C. ENTITLEMENT TO REBATE

25 Sec. 51.101. TIME ALLOWED CONSUMER. (a) A consumer is
26 entitled to submit a rebate request before the expiration of the
27 period specified in the disclosure required by Section 51.051. A

1 rebate form that is mailed is considered submitted on the date on
2 which the form is postmarked.

3 (b) A manufacturer or service provider may not require a
4 consumer to submit a rebate form after the date of the next regular
5 billing for the good or service following the date on which the
6 consumer purchased the good or service.

7 Sec. 51.102. TIME ALLOWED FOR PROVIDING REBATE. A
8 manufacturer shall send a rebate to a consumer not later than the
9 10th day after the date on which the period specified in the
10 disclosure required by Section 51.051 expires. A rebate that is
11 mailed is considered sent on the date on which the rebate is
12 postmarked.

13 Sec. 51.103. MANUFACTURER OR SERVICE PROVIDER THAT REFUSES
14 TO PROVIDE REBATE. If a manufacturer or service provider refuses to
15 provide a rebate, the manufacturer or service provider shall, not
16 later than the 30th day after the date the rebate form was
17 postmarked:

18 (1) disclose in writing the reasons for the refusal to
19 the consumer; and

20 (2) provide to the consumer the original rebate form
21 submitted by the consumer and any attached documentation.

22 [Sections 51.104-51.150 reserved for expansion]

23 SUBCHAPTER D. ENFORCEMENT

24 Sec. 51.151. PRIVATE CAUSE OF ACTION. (a) A consumer who
25 has been injured by a violation of this chapter may bring an action
26 against a manufacturer, service provider, or retailer for the
27 greater of:

1 (1) actual damages; or

2 (2) \$500.

3 (b) A trier of fact may award a consumer not more than three
4 times the actual damages incurred as a result of a violation of this
5 chapter.

6 (c) A plaintiff who prevails in an action under this chapter
7 is entitled to court costs and reasonable attorney's fees.

8 (d) Chapter 41, Civil Practice and Remedies Code, does not
9 apply to a cause of action brought under this section.

10 SECTION 2. The change in law made by this Act applies only
11 to a rebate for a good or service purchased by a consumer on or after
12 the effective date of this Act. A rebate for a good or service
13 purchased by a consumer before the effective date of this Act is
14 covered by the law in effect on the date the purchase was made, and
15 the former law is continued in effect for that purpose.

16 SECTION 3. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2007.