

By: Van de Putte

S.B. No. 1389

A BILL TO BE ENTITLED

AN ACT

relating to the processing of consumer rebates.

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

SECTION 1. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.43 to read as follows:

Sec. 35.43. CONSUMER REBATE RESPONSE AND GRACE PERIOD FOR CORRECTIONS. (a) In this section:

(1) "Consumer" means a person who obtains a product or service that is to be used primarily for personal, business, family, or household purposes.

(2) "Consumer rebate" means an offer to a consumer of cash, credit, or credit toward future purchases that is made in connection with a sale of a good or service to the consumer, is in an amount of \$10 or more, and requires the consumer to mail or electronically submit a rebate request after the sale is completed. The term does not include:

(A) any promotion or incentive that is offered by a manufacturer to another company or organization that is not the consumer to help promote or place the product or service;

(B) a rebate that is redeemed at the time of purchase;

(C) any discount, cash, credit, or credit toward a future purchase that is automatically provided to a consumer without the need to submit a request for redemption;

1 (D) a rebate that is applied to a bill that the
2 consumer becomes obligated to pay after the date the purchase is
3 made;

4 (E) any refund that may be given to a consumer in
5 accordance with a manufacturer or retailer's return, guarantee,
6 adjustment, or warranty policies; or

7 (F) any manufacturer or retailer's frequent
8 shopper customer reward program.

9 (3) "Properly completed" means that the consumer
10 submitted the required information and documentation in the manner
11 and by the deadline specified in the rebate offer and otherwise
12 satisfied the terms and conditions of the rebate offer.

13 (b) Except as provided by Subsection (c), a person,
14 including a manufacturer or retailer, who offers a rebate shall
15 mail the amount of the rebate to the consumer or electronically pay
16 the consumer the amount of the rebate within the time period
17 promised in the rebate information provided to the consumer, or if
18 silent, not later than the 30th day after the date the person
19 receives a properly completed rebate request.

20 (c) If a consumer rebate offer is contingent on the consumer
21 continuing to purchase a service for a minimum length of time, the
22 time period in Subsection (b) begins on the later of:

23 (1) the date the consumer submits the rebate request;
24 or

25 (2) the expiration date of the service period.

26 (d) If the person offering the rebate receives a rebate
27 request that is timely submitted but not properly completed, the

1 person shall:

2 (1) process the rebate in the manner provided by
3 Subsection (b) as if the rebate request were properly completed; or

4 (2) notify the consumer, not later than the date
5 specified by Subsection (b), of the reasons that the rebate request
6 is not properly completed and the consumer's right to correct the
7 deficiency within 30 days after the date of the notification.

8 (e) The notification under Subsection (d)(2) must be by
9 mail, except that notification may be by e-mail if the consumer has
10 agreed to be notified by e-mail.

11 (f) If the consumer corrects the deficiency stated in the
12 notification under Subsection (d)(2) before the 31st day after the
13 postmark date of the person's mailed notification to the consumer
14 or the date the e-mail is received, if applicable, the person shall
15 process the rebate in the manner provided by Subsection (b) for a
16 properly completed request.

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

22 (h) A person offering a rebate has the right to reject a
23 rebate request from a consumer who the person determines:

24 (1) is attempting to commit fraud;

25 (2) has already received the offered rebate; or

26 (3) is submitting proof of purchase that is not
27 legitimate.

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

6 (j) If the person offering a rebate erroneously rejects a
7 properly completed rebate request, the person shall pay the
8 consumer as soon as practicable, but not later than 30 days, after
9 the date the person learns of the error.

10 (k) For the purposes of this section, if a person who offers
11 a rebate uses an independent entity to process the rebate, an act of
12 the entity is considered to be an act of the person and receipt of a
13 rebate request by the entity is considered receipt of the request by
14 the person.

15 (l) A violation of this section is a deceptive trade
16 practice in addition to the practices described by Subchapter E,
17 Chapter 17, and is actionable under that subchapter.

18 (m) A court may not certify an action brought under this
19 section as a class action.

20 SECTION 2. This Act takes effect September 1, 2007.