

COUNTY OF BERGEN & COUNTY OF PASSAIC

Department of Public Safety

**DIVISION OF CONSUMER AFFAIRS
OFFICE OF CONSUMER PROTECTION**

220 E Ridgewood Avenue, Paramus, NJ 07652

Telephone 201-336-6400 Fax 201-336-6416

Important Retail Laws in New Jersey

56:8-2.16. Posting of signs; locations

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

- a. Attached to the item itself, or
- b. Affixed to each cash register or point of sale, or
- c. So situated as to be clearly visible to the buyer from the cash register, or
- d. Posted at each store entrance used by the public.

L.1982, c. 29, s. 3.

56:8-2.5. Sale, attempt to sell or offer for sale of merchandise without tag or label with selling price

It shall be an unlawful practice for any person to sell, attempt to sell or offer for sale any merchandise at retail unless the total selling price of such merchandise is plainly marked by a stamp, tag, label or sign either affixed to the merchandise or located at the point where the merchandise is offered for sale.

L.1973, c. 308, s. 1.

56:8-2.6. Daily failure to tag as separate violation

For the purposes of this act, each day for which the total selling price is not marked in accordance with the provisions of this act for each group of identical merchandise shall constitute a separate violation of this act and the act of which this act is a supplement.

56:8-2.8. "Going out of business sale"; time limits

It shall be an unlawful practice for any person to advertise merchandise for sale as a "going out of business sale" or in terms substantially similar to "going out of business sale" for a period in excess of 90 days or to advertise more than one such sale in 360 days. The 360-day period shall commence on the first day of such sale. For any person in violation of this act, each day in violation shall constitute an additional, separate and distinct violation.

L.1979, c. 103, s. 1.

56:8-110. Gift certificate, card, validity, terms, required; definitions.

a. A gift certificate or gift card sold after the effective date of this amendatory act shall retain full unused value until presented in exchange for merchandise, or shall have any and all conditions and limitations, as permitted in paragraphs (1) through (3) of this subsection, disclosed to the purchaser of the gift certificate or gift card at the time of purchase as provided in subsection b. of this section.

(1) In no case shall the underlying funds associated with a gift certificate or gift card expire within the 24 months immediately following the date of sale.

(2) No dormancy fee shall be charged against a gift certificate or a gift card within the 24 months immediately following the date of sale, nor shall one be charged within the 24 months immediately following the most recent activity or transaction in which the certificate or card was used.

(3) A dormancy fee charged against a gift certificate or gift card as permitted by this subsection shall not exceed \$2.00 per month.

b. The terms of any expiration date or dormancy fee applicable to a gift certificate or gift card, as permitted by subsection a. of this section, shall be disclosed to a consumer by:

(1) written notice of the expiration date or dormancy fee or both printed in at least 10 point font, on the gift certificate or gift card, or the sales receipt for the certificate or card, or the package for the certificate or card; and

(2) written notice, in at least 10 point font, on the gift certificate or gift card, or the sales receipt for the certificate or card, or the package for the certificate or card, of a telephone number which the consumer may call, for information concerning any expiration date or dormancy fee.

c. Beginning September 1, 2012 if a stored value card deemed a gift card or gift certificate pursuant to section 5 of P.L.2010, c.25 (C.46:30B-42.1) is redeemed and a balance of less than \$5 remains on the card after redemption, at the owner's request the merchant or other entity redeeming the card shall refund the balance in cash to the owner.

A merchant or other entity required to comply with the provisions of this subsection shall be liable to a penalty of \$500 for each violation plus restitution of the amount of the cash value remaining on the stored value card, provided however that the amount of the penalty shall be trebled for an aggregate of 100 such violations occurring during any 12-month period. Failure to provide requested cash redemption for each stored value card shall be considered a separate violation. Upon receiving evidence of any violation of the provisions of this subsection, the Director of the Division of Consumer Affairs, or the director's designee, is empowered to hold hearings upon those violations and upon finding the violation to have been committed, to assess a penalty against the person alleged to have committed the violation in the amounts provided in this subsection. The director shall thereafter return to the owner of the card the amount of the cash value remaining on the card recovered under this subsection, and this shall be the sole remedy available to the owner for those violations.

This subsection does not impose on an issuer or merchant or other entity required to comply with the provisions of this subsection an obligation to advertise the availability of a refund balance redemption. Notwithstanding the foregoing or any provision in section 3 of P.L.1981, c.454 (C.56:12-16), an issuer,

seller or redeemer of stored value cards may elect to include a disclosure or may, in the alternative, include a statement on the stored value card or other marketing materials that the card "is not redeemable for cash except as required by law" or similar statement.

This subsection shall not apply to (1) a non-reloadable stored value card with an initial value of \$5 or less; or (2) a stored value card that is not purchased but is provided in lieu of a refund for returned merchandise; or (3) a stored value card that can be redeemed at multiple merchants that are not under common ownership or control, including but not limited to network-branded stored value cards; or (4) a rewards card; or (5) a stored value card that is donated or sold below face value to a nonprofit or charitable organization or an educational organization; or (6) a stored value card that is redeemable for admission to events or venues at a particular location or group of affiliated locations, or for goods or services in conjunction with admission to those events or venues, or both, at the event or venue or at specific locations affiliated with and in geographic proximity to the event or venue. d. As used in this section:

"Dormancy fee" means a charge imposed against the unused value of a gift card or gift certificate due to inactivity;

"Gift card" means a tangible device, whereon is embedded or encoded in an electronic or other format a value issued in exchange for payment, which promises to provide to the bearer merchandise of equal value to the remaining balance of the device. "Gift card" does not include a prepaid telecommunications or technology card, prepaid bank card or rewards card;

"Gift certificate" means a written promise given in exchange for payment to provide merchandise in a specified amount or of equal value to the bearer of the certificate. "Gift certificate" does not include a prepaid telecommunications or technology card, prepaid bank card or rewards card; "Merchandise" means and includes any objects, wares, goods, commodities, services or anything offered, directly or indirectly, to the public for sale;

"Prepaid bank card" means a general use, prepaid card or other electronic payment device that is issued by a bank or other financial institution, or a licensed money transmitter, in a pre-denominated amount usable at multiple, unaffiliated merchants or at automated teller machines, or both, but shall not include a card issued by a retail merchant;

"Rewards card" means a card or certificate distributed by the issuer to a consumer pursuant to an awards, loyalty, rewards or promotional program, without any money or other consideration or thing of value by the consumer in exchange for the card or certificate.

L.2002, c.14, s.1; amended 2005, c.254; 2012, c.14, s.2.



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56:8-2.30. Posting of raincheck policy by retail mercantile establishment.

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

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

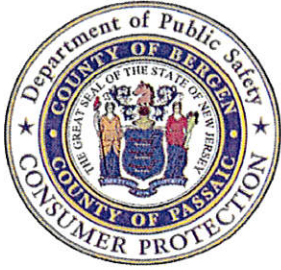
L.2006,c.59,s.3.

56:8-2.31. Unlawful practices by retail mercantile establishment relative to rainchecks.

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

- a. Honor or satisfy that raincheck within 60 days of issuance, unless an extension of such time period is agreed to by the holder of the raincheck, provided that if after a good faith effort a retail mercantile establishment cannot procure for the holder of the raincheck the advertised merchandise within the 60-day period, the retail mercantile establishment may offer the holder of the raincheck a different item of merchandise of substantially the same kind, quality and price of the original advertised merchandise; and
- b. For all merchandise with an advertised price greater than \$15 per unit, give written or telephonic notice to the holder of the raincheck when the merchandise is available and inform the holder of the raincheck that the advertised merchandise will be held for a period of no less than 10 days from the date of notification or to the end of the 60-day period for which the raincheck is valid, whichever is longer; and
- c. Offer a raincheck to all customers who are unable, due to the unavailability of the merchandise, to purchase the advertised merchandise during the period of time that the merchandise has been advertised as available for sale.

L.2006,c.59,s.4.



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56:8-2.29 Definitions relative to raincheck policy disclosure.

2. As used in this act:

"Advertised" means any attempt, other than by use of a price tag, catalogue or any offering for sale of a motor vehicle, to directly or indirectly induce the purchase or rental of merchandise at retail, appearing in any newspaper, magazine, periodical, circular, in-store or out-of-store sign or other written matter placed before the consuming public, or in any radio or television broadcast.

"Merchandise" means any objects, wares, merchandise, commodities, services or anything offered directly or indirectly to the public for sale or rental at retail.

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

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

56:8-2.8. "Going out of business sale"; time limits

It shall be an unlawful practice for any person to advertise merchandise for sale as a "going out of business sale" or in terms substantially similar to "going out of business sale" for a period in excess of 90 days or to advertise more than one such sale in 360 days. The 360-day period shall commence on the first day of such sale. For any person in violation of this act, each day in violation shall constitute an additional, separate and distinct violation.

L.1979, c. 103, s. 1.

56:8-2. Fraud, etc., in connection with sale or advertisement of merchandise or real estate as unlawful practice

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice; provided, however, that nothing herein contained shall apply to the owner or publisher of newspapers, magazines, publications or printed matter wherein such advertisement appears, or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher, or operator has no knowledge of the intent, design or purpose of the advertiser.

L.1960, c. 39, p. 138, s. 2. Amended by L.1967, c. 301,

* There are some exemptions on several laws

56:8-1 Definitions.

1. (a) The term "advertisement" shall include the attempt directly or indirectly by publication, dissemination, solicitation, indorsement or circulation or in any other way to induce directly or indirectly any person to enter or not enter into any obligation or acquire any title or interest in any merchandise or to increase the consumption thereof or to make any loan;
- (b) The term "Attorney General" shall mean the Attorney General of the State of New Jersey or any person acting on his behalf;
- (c) The term "merchandise" shall include any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale;
- (d) The term "person" as used in this act shall include any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trustent thereof;
- (e) The term "sale" shall include any sale, rental or distribution, offer for sale, rental or distribution or attempt directly or indirectly to sell, rent or distribute;
- (f) The term "senior citizen" means a natural person 60 years of age or older.

L.1960,c.39,s.1; amended 1967, c.301, s.1; 1999, c.298, s.2.

56:8-1.1 Temporary help services; inclusion within definition of merchandise; rules, regulations; fees, charges on firms; transport of workers regulated.

14. Services provided by a temporary help service firm shall constitute services within the term "merchandise" pursuant to P.L.1960, c.39, s.1 (C.56:8-1(c)), and the provisions of P.L.1960, c.39 (C.56:8-1 et seq.) shall apply to the operation of a temporary help service firm.

The Attorney General shall promulgate rules and regulations pursuant to section 4 of P.L.1960, c.39 (C.56:8-4). The Attorney General shall, by rule or regulation, establish, prescribe or change an annual registration fee or other charge on temporary help service firms to such extent as shall be necessary to defray all proper expenses incurred by his office in the performance of its duties under this section of this act but such registration fees or other charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required. In addition to any other appropriate requirements, the Attorney General shall, by rule or regulation require the following:

- a. Each temporary help service firm operating within the State of New Jersey shall, prior to the effective date of this act or commencement of operation and annually thereafter, notify the Attorney General as to its appropriate name, if applicable; the trade name of its operation; its complete address, including street and street number of the building and place where its business is to be conducted; and the names and resident addresses of its officers. Each principal or owner shall provide an affidavit to the Attorney General setting forth whether such principal or owner has ever been convicted of a crime.
- b. When a temporary help service firm utilizes any location other than its primary location for the recruiting of applicants, including mobile locations, it shall notify the Office of the Attorney General

revocation shall not be made except upon reasonable notice to, and the opportunity to be heard by, the applicant or registrant.

L.2007,c.15.

56:8-2. Fraud, etc., in connection with sale or advertisement of merchandise or real estate as unlawful practice

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice; provided, however, that nothing herein contained shall apply to the owner or publisher of newspapers, magazines, publications or printed matter wherein such advertisement appears, or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher, or operator has no knowledge of the intent, design or purpose of the advertiser.

L.1960, c. 39, p. 138, s. 2. Amended by L.1967, c. 301, s. 2, eff. Feb. 15, 1968; L.1971, c. 247, s. 1, eff. June 29, 1971; L.1975, c. 294, s. 1, eff. Jan. 19, 1976.

56:8-2.1. Operation simulating governmental agency as unlawful practice

It shall be an unlawful practice for any person to operate under a name or in a manner which wrongfully implies that such person is a branch of or associated with any department or agency of the Federal Government or of this State or any of its political subdivisions, or use any seal, insignia, envelope or other format which simulates that of any governmental department or agency.

L.1968, c. 448, s. 1, eff. Feb. 19, 1969.

56:8-2.2. Scheme to not sell item or service advertised

The advertisement of merchandise as part of a plan or scheme not to sell the item or service so advertised or not to sell the same at the advertised price is an unlawful practice and a violation of the act to which this act is a supplement.

L.1969, c. 131, s. 1.

56:8-2.3. Advertising plan involving notification of winning of prize and other requirements unlawful.

The notification to any person by any means, as a part of an advertising plan or scheme, that he has won a prize and requiring him to do any act, purchase any other item or submit to a sales promotion effort is an unlawful practice and a violation of the act to which this act is a supplement.

L.1969,c.131,s.2.

All moneys collected pursuant to this section shall be paid to the officer lawfully charged with the custody of the general funds of the county or municipality.

L.1981, c.178, s.1; amended 1991, c.149; 2011, c.181, s.2.

56:8-14.2. Definitions relative to certain deceptive consumer practices

1. As used in this act:

"Fund" means the Consumer Fraud Education Fund created pursuant to section 5 of this act.

"Pecuniary injury" shall include, but not be limited to: loss or encumbrance of a primary residence, principal employment, or source of income; loss of property set aside for retirement or for personal or family care and maintenance; loss of payments received under a pension or retirement plan or a government benefits program; or assets essential to the health or welfare of the senior citizen or person with a disability.

"Person with a disability" means a natural person who has a physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide animal, wheelchair, or other remedial appliance or device, or from any mental, psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques.

"Senior citizen" means a natural person 60 years of age or older.

L.1999,c.129,s.1; amended 2001, c.339.

56:8-14.3. Additional penalties for violation of C.56:8-1 et seq.

2. a. In addition to any other penalty authorized by law, a person who violates the provisions of P.L.1960, c.39 (C.56:8-1 et seq.) shall be subject to additional penalties as follows:

(1) A penalty of not more than \$10,000 if the violation caused the victim of the violation pecuniary injury and the person knew or should have known that the victim is a senior citizen or a person with a disability; or

(2) A penalty of not more than \$30,000 if the violation was part of a scheme, plan, or course of conduct directed at senior citizens or persons with disabilities in connection with sales or advertisements.

The requirement of actual or constructive knowledge is applicable to the additional penalty provided under paragraph (1) of this subsection only, and is not required to prove a violation of any other provision of P.L. 1960, c. 39 (C.56:8-1 et seq.).

b. The civil penalties authorized and collected under subsection a. of this section shall be paid to the State Treasurer and credited to the Consumer Fraud Education Fund created pursuant to section 5 of P.L.1999, c.129 (C.56:8-14.6).

L.1999,c.129,s.2.