



# House of Representatives

General Assembly

**File No. 229**

January Session, 2009

Substitute House Bill No. 6516

*House of Representatives, March 25, 2009*

The Committee on General Law reported through REP. SHAPIRO of the 144th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT ESTABLISHING MINIMUM RETAIL REFUND AND EXCHANGE POLICIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-110aa of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective January 1, 2010*):

3 (a) No person engaged in trade or commerce in this state, upon the  
4 return of goods purchased from such person's place of business, shall  
5 refuse to accept the returned goods [immediately] with a receipt and  
6 shall immediately issue the individual returning such goods either a  
7 cash or credit refund of the purchase price, [or credit towards the  
8 purchase of another item offered for sale at such person's place of  
9 business] corresponding to the form of payment at the time the goods  
10 were purchased, provided such return is made [within the period of  
11 time established by such person for the acceptance of returned goods  
12 and provided further, such goods are returned in a manner consistent  
13 with such person's conspicuously posted refund or exchange policy]  
14 not more than thirty days after the date the individual purchased the

15 goods. Such person engaged in trade or commerce in this state shall  
16 conspicuously post such person's refund or exchange policies at such  
17 person's place of business. Any such person that utilizes an electronic  
18 system to record, monitor and limit the number or total dollar value of  
19 returns made by a consumer shall clearly indicate the use of such  
20 system within such person's conspicuously posted refund or exchange  
21 policy.

22 (b) [Any] Subject to the provisions of subsection (a) of this section,  
23 any person that utilizes an electronic system to record, monitor and  
24 limit the number or total dollar value of returns made by a consumer  
25 shall, prior to terminating the right of any such consumer to return  
26 goods at such person's place of business pursuant to any such  
27 limitation, provide written notice to such consumer that indicates such  
28 termination. Such termination notice shall not affect such consumer's  
29 right to return any goods purchased by such consumer or purchased  
30 for the benefit of such consumer prior to the date of such notice, if such  
31 consumer has a valid receipt evidencing a purchase date for such  
32 goods that is prior to the date such consumer receives such notice. Any  
33 such notice that is mailed to the last known address of such consumer  
34 or to the address of such consumer that is obtained through reasonably  
35 available public records shall be deemed to comply with the  
36 notification requirements of this subsection.

37 (c) This section shall not be construed to prohibit any person  
38 engaged in trade or commerce in this state from extending the period  
39 of time during which such person will accept the return of goods  
40 purchased from such person's place of business.

41 (d) This section does not apply to: [perishable] (1) Perishable goods,  
42 including readily perishable foods and beverages, [or] goods clearly  
43 marked as nonreturnable pursuant to such person's conspicuously  
44 posted refund or exchange policy, (2) custom made or special order  
45 items, (3) books, magazines and other periodicals, (4) opened or used  
46 compact discs, digital video discs or other recorded media, and (5)  
47 goods that are damaged by the consumer and not fit for resale by the

48 seller.

49 (e) Any violation of the provisions of subsection (a) of this section  
50 shall constitute an unfair trade practice for purposes of section 42-110b.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2010</i>	42-110aa

**GL**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Consumer Protection, Dept.	GF - Revenue Gain	Potential	Potential
Consumer Protection, Dept.	GF - Cost	28,000	56,000
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	16,000	32,000

Note: GF=General Fund

**Municipal Impact:** None

### **Explanation**

The bill results in a cost to the state of approximately \$88,000 per year due to the need of one Special Investigator in the Department of Consumer Protection. The cost in FY 10 would be \$44,000 as the bill is effective January 1, 2010. The additional cost is due to an anticipated increase in consumer complaints and the need to investigate the complaints.

The bill also results in a potential revenue gain to the state due to potential Connecticut Unfair Trade Practices Act (CUTPA) violations. It is anticipated that any increased workload to the Department of Consumer Protection regarding minimum refund and exchange policies can be accommodated within current resources.

<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller on an actual cost basis. The following is provided for estimated costs associated with additional personnel. The estimated non-pension fringe benefit rate as a percentage of payroll is 25.43%. Fringe benefit costs for new positions do not initially include pension costs as the state's pension contribution is based upon the 6/30/08 actuarial valuation for the State Employees Retirement System (SERS) which certifies the contribution for FY 10 and FY 11. Therefore, new positions will not impact the state's pension contribution until FY 12 after the next scheduled certification on 6/30/2010.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****HB 6516*****AN ACT ESTABLISHING MINIMUM RETAIL REFUND AND EXCHANGE POLICIES.*****SUMMARY:**

By law retailers may establish refund and exchange policies. Those that do must post them in a conspicuous place within their establishment. This bill establishes minimum such policies that require all retailers to accept goods returned within 30 days of purchase with a receipt and immediately issue a cash or credit refund, as appropriate.

Current law exempts from the minimum return policy perishable goods or goods marked as nonreturnable and custom or special order items. The bill expands the exemptions to include books, magazines, or periodicals; opened or used media; and goods damaged by the customer and not fit for resale.

A violation is, as under current law, an unfair trade practice.

EFFECTIVE DATE: January 1, 2010

**BACKGROUND*****Connecticut Unfair Trade Practices Act***

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and

impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute

Yea 15 Nay 4 (03/10/2009)