



House of Representatives

File No. 677

General Assembly

February Session, 2010

(Reprint of File No. 102)

Substitute House Bill No. 5227
As Amended by House Amendment
Schedule 'A'

Approved by the Legislative Commissioner
April 30, 2010

AN ACT PROHIBITING PENALTY FEES IN CERTAIN CONSUMER CONTRACTS.

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

1 Section 1. Subsection (a) of section 42-110aa of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *January 1, 2011*):

4 (a) (1) (A) No person engaged in trade or commerce in this state,
5 upon the return of goods purchased from such person's place of
6 business, shall refuse to accept the returned goods immediately and
7 issue the individual returning such goods either a cash or credit refund
8 of the purchase price or credit towards the purchase of another item
9 offered for sale at such person's place of business, provided such
10 return is made within the period of time established by such person for
11 the acceptance of returned goods and provided further, such goods are
12 returned in a manner consistent with such person's conspicuously
13 posted refund or exchange policy.

14 (B) In the event that such policy contains a restocking or any other

15 fee associated with the return of such goods, such fee shall be disclosed
 16 in bold or underlined print in such posted policy. A person engaged in
 17 trade or commerce in this state who discloses such fee in such posted
 18 policy and in at least one other location shall not be required to
 19 disclose such fee in bold or underlined print pursuant to this
 20 subdivision.

21 (C) Any such person that utilizes an electronic system to record,
 22 monitor and limit the number or total dollar value of returns made by
 23 a consumer shall clearly indicate the use of such system within such
 24 person's conspicuously posted refund or exchange policy.

25 (2) No person engaged in trade or commerce in this state shall
 26 charge an individual returning such goods a restocking or any other
 27 fee associated with the return of such goods if such goods were (A)
 28 received by the original purchaser in defective condition, or (B) not
 29 those offered for sale by the seller to the purchaser.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2011	42-110aa(a)

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:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Consumer Protection, Dept.	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a potential revenue gain due to potential violations of the Connecticut Unfair Trade Practices Act (CUTPA). It is anticipated that the Department of Consumer Protection can accommodate the number of complaints concerning the returning of goods and associated restocking, handling and other fees within existing resources.

House "A" (LCO 3953) makes technical changes which result in no fiscal impact.

The Out Years

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

OLR Bill Analysis**sHB 5227 (as amended by House "A")******AN ACT PROHIBITING PENALTY FEES IN CERTAIN CONSUMER CONTRACTS.*****SUMMARY:**

This bill prohibits anyone engaged in trade or commerce from charging a restocking or any other fee associated with returning goods, if the goods were (1) received by the original purchaser in defective condition or (2) not those offered for sale by the seller to the purchaser.

It also requires sellers to post restocking or other fees associated with returning goods in bold or underlined print on their refund or exchange policy, which, by law, they must post conspicuously. If a seller discloses such a fee in its posted policy and in at least one other location, then the print in the posted policy does not need to be in bold or underlined.

By law, the goods must be returned within the deadline established for accepting returned goods and in a manner consistent with the posted refund or exchange policy. Perishable goods or goods clearly marked as nonreturnable are not subject to the bill.

A violation of this bill is an unfair trade practice.

*House Amendment "A" deletes the cap on fees associated with returning merchandise and adds restocking fee disclosure requirements.

EFFECTIVE DATE: January 1, 2011

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

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 17 Nay 1 (03/09/2010)

Judiciary Committee

Joint Favorable

Yea 29 Nay 11 (04/12/2010)