

AMENDED IN ASSEMBLY JUNE 9, 2008

AMENDED IN SENATE APRIL 1, 2008

SENATE BILL

No. 1257

Introduced by Senator Machado

February 15, 2008

An act to add Title 1.75 (commencing with Section 1797.98) to Part 4 of Division 3 of the Civil Code, relating to consumer rebates.

LEGISLATIVE COUNSEL'S DIGEST

SB 1257, as amended, Machado. Consumer rebates.

Existing law imposes certain requirements on retail sellers that sell goods to the public in this state, including specified display requirements with regard to certain refund policies.

This bill would, on and after July 1, 2009, impose certain requirements on companies and retailers that offer consumer rebates, as defined, including *that the company shall provide the consumer with a rebate redemption form as specified, depending on how the sale of services or goods was made, and that a company shall allow a minimum of ~~45~~ 15 days, or the duration of the rebate after, whichever is longer*, for a consumer to submit a rebate request. *For rebates conditioned upon the installation or activation of a service, a company shall provide the rebate redemption form within 14 days of the date that the service is installed or activated.* The bill would specify the information that may be required from a consumer by a company that offers a consumer rebate. The bill would exempt from its provisions rebates offered by a gas or electric corporation or a local publicly owned electric utility through its energy program, or a consumer rebate for \$10 or less.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Title 1.75 (commencing with Section 1797.98)
2 is added to Part 4 of Division 3 of the Civil Code, to read:

3

4

TITLE 1.75. CONSUMER REBATES

5

6 1797.98. As used in this title, “consumer rebate” means an
7 offer to provide cash, credit, or credit towards future purchases,
8 that is offered to consumers who acquire or purchase a specified
9 product or service and that is conditioned upon the customer
10 submitting a request for redemption after satisfying the terms and
11 conditions of the offer. “Consumer rebate” shall not include any
12 discount from the purchase price that is taken at the time of
13 purchase; any discount, cash, credit, or credit towards a future
14 purchase that is automatically provided to a consumer without the
15 need to submit a request for redemption; or any refund that may
16 be given to a consumer in accordance with a company’s return,
17 guarantee, adjustment, or warranty policies; or a company’s
18 frequent shopper customer reward program.

19 1797.980. As used in this title, “company” means the company
20 or entity that is funding the consumer rebate.

21 1797.981. (a) A company shall not require a consumer to
22 provide more than the following as proof of purchase for purposes
23 of redeeming a consumer rebate:

24 (1) A receipt for the purchase of the product or services.

25 (2) A universal product code, *electronic serial number (ESN)*,
26 *mobile equipment identifier (MEID)*, packing slip, or packaging
27 element that is clearly and conspicuously marked as the ~~necessary~~
28 ~~proof of purchase for the rebate offer.~~ *of purchase. However, the*
29 *rebate offer form clearly and conspicuously explains how to find*
30 *the necessary proof of purchase, the item need not be marking as*
31 *the proof of purchase.*

32 (3) The name of the consumer.

33 (4) The address of the consumer.

34 (5) Either the consumer’s telephone number or e-mail address,
35 ~~at the consumer’s choice, but not both.~~ *except that if the service*
36 *for which the rebate is offered depends on both a telephone number*
37 *and an e-mail address to validate or verify whether the customer*

1 *has the service required, a company may ask the consumer for*
2 *both a telephone number and an e-mail address.*

3 (6) The consumer's membership *or account* number, if
4 applicable.

5 (7) *A product name, type, model or other identifying number of*
6 *the product.*

7 ~~(7)~~

8 (8) The consumer's signature.

9 ~~(8)~~

10 (9) If eligibility for the consumer rebate is triggered by an
11 electronic transaction, a valid proof of the electronic transaction.

12 (b) For purposes of paragraph (1) of subdivision (a), a copy of
13 the receipt shall be sufficient unless the consumer is provided with
14 a duplicate original receipt for each product associated with a
15 consumer rebate, in which case the duplicate original may be
16 required.

17 (c) If the consumer rebate offer is contingent upon ownership
18 of another product or *retention of another* service, a company may,
19 in addition to the information permitted to be requested under
20 subdivision (a), request reasonable proof of ownership of that other
21 product or *retention of that* service.

22 (d) (1) Notwithstanding subdivision (a), a company has the
23 right to reject a consumer rebate claim or to request reasonable
24 additional documentation to verify a claim if that company has
25 reason to believe that the individual consumer submitting the rebate
26 ~~request~~ *redemption form* is attempting to commit fraud or has
27 already received the offered rebate, or that the proof of purchase
28 is not from a legitimate company product or service.

29 (2) If a company rejects a consumer's rebate redemption ~~request~~
30 *form submitted in good faith*, the company shall provide the
31 consumer a written explanation for the rejection, and shall allow
32 the consumer to cure the alleged defect in the rebate redemption
33 ~~request form~~.

34 ~~1797.982. (a) Except as provided in subdivision (b), a~~
35 ~~consumer rebate offer shall conspicuously disclose a toll-free~~
36 ~~telephone number or Internet Web site on the rebate redemption~~
37 ~~form that a consumer may call contact to check the status of his~~
38 ~~or her rebate request.~~

39 ~~(b) If a consumer purchases a company's product through an~~
40 ~~Internet Web site operated or maintained by that company, an~~

1 ~~Internet Web site or other electronic means may be provided,~~
2 ~~instead of the telephone number, for the consumer to check the~~
3 ~~status of his or her consumer rebate.~~

4 1797.983. ~~A company may require the consumer to write the~~
5 ~~model number or other identifying number on the consumer rebate~~
6 ~~form only if the receipt does not reveal the product name, type,~~
7 ~~model, or other identifying number.~~

8 *(b) A toll-free telephone number or Internet Web site by which*
9 *a consumer may check the status of his or her consumer rebate*
10 *shall remain in operation for at least 30 days after a rebate is paid*
11 *out to the consumer.*

12 1797.984. *(a) A company that offers a consumer rebate*
13 *redemption shall allow a minimum of 15 days from the date*
14 *the consumer purchases the product or service, or the duration of*
15 *the rebate offer, whichever period of time is longer, for the*
16 *consumer to submit the rebate request redemption form.*

17 *(b) A company that conditions a consumer rebate redemption*
18 *upon the consumer staying with a service for a minimum period*
19 *of time or until after the installation and activation of service,*
20 *shall, after the consumer meets those conditions and receives the*
21 *rebate redemption form, allow a minimum of 15 days or the*
22 *duration of the rebate offer, whichever is longer, for the consumer*
23 *to submit the completed rebate redemption form.*

24 1797.985. ~~(a) Except as provided in subdivision (b), a~~
25 ~~company offering a consumer rebate shall not require personal~~
26 ~~information other than the consumer's name, address, telephone~~
27 ~~number; or e-mail address, account or membership number, if~~
28 ~~applicable, and signature.~~

29 ~~(b) A company may require, instead of a telephone number, a~~
30 ~~consumer's electronic mail address with respect to products~~
31 ~~purchased over the Internet, Internet-based services, or Internet~~
32 ~~rebate redemptions.~~

33 *(b) Notwithstanding subdivision (a), a company offering a*
34 *consumer rebate on alcoholic beverages in compliance with this*
35 *title may require any consumer seeking a rebate to provide proof*
36 *that he or she is of legal drinking age.*

37 1797.986. ~~(a) A company offering a consumer rebate shall~~
38 ~~provide the rebate redemption form directly in at least one of the~~
39 ~~following ways:~~

1 (a) *Directly* with the product, or at the same location and at the
2 same time that the consumer purchases the product.

3 ~~(b) A company that does not provide rebate forms directly with
4 its product may comply with this section by supplying the retailer~~

5 (b) *By supplying the retailer* with either of the following:

6 (1) A sufficient quantity of rebate redemption forms based on
7 reasonably anticipated sales.

8 (2) The means to create a rebate redemption form at the time
9 and place of sale.

10 ~~(c) For purposes of Internet sales, a generally accessible
11 company Internet Web page, including a rebate form on that page,
12 shall comply with this section. For purposes of telephone sales,
13 directing consumers to a generally accessible company Internet
14 Web page, including the rebate form, and, upon request, sending
15 the rebate form via the consumer's choice of regular or electronic
16 mail or facsimile shall comply with this section.~~

17 (c) *For Internet sales, by providing a generally accessible
18 company Internet Web page that includes a rebate redemption
19 form on that page.*

20 (d) *For telephone sales, by directing consumers to a generally
21 accessible company Internet Web page that includes a rebate
22 redemption form, and, upon request, by sending the rebate
23 redemption form to the consumer by the consumer's choice of
24 regular or electronic mail.*

25 (e) *For rebates conditioned upon the installation or activation
26 of a service, by providing the rebate redemption form as set forth
27 in subdivision (a) to (d), inclusive, within 14 days after the date
28 the service is installed or activated.*

29 1797.987. The provisions of this title do not apply to either
30 any of the following:

31 (a) Rebates and rebate programs that are offered by gas or
32 electric corporations through their energy programs under the
33 jurisdiction of the Public Utilities Commission.

34 (b) Rebates and rebate programs that are offered by local
35 publicly owned electric utilities, as defined in Section 9604 of the
36 Public Utilities Code, through their energy programs funded
37 pursuant to Section 385 of the Public Utilities Code.

38 (c) A consumer rebate for ten dollars (\$10) or less.

39 1797.988. (a) This title shall become operative on July 1, 2009.

1 (b) Nothing in this title shall impose on any manufacturer any
2 obligation to recall any product or service offering consumer
3 rebates made available to retail sales outlets or consumers prior to
4 the operative date of this title. Any rebate offer in effect prior to
5 the operative date of this title shall be deemed to be in compliance
6 with this title.

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