

SECOND REGULAR SESSION

SENATE BILL NO. 712

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GIBBONS.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3257S.03I

AN ACT

To amend chapter 407, RSMo, by adding thereto four new sections relating to merchandising practices.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto four new sections, to be known as sections 407.055, 407.1380, 407.1382, and 407.1384, to read as follows:

407.055. In any sale of merchandise involving the use of a rebate, it shall be considered an unlawful practice under section 407.020 for a person to use the after-rebate price in any advertisement for merchandise unless the amount of the rebate is provided to the consumer by the seller at the time of purchase of the merchandise. This section shall not be construed as requiring a person to provide the amount of a rebate to a consumer at the time of purchase of merchandise for which a rebate is offered, provided that any advertisement for such merchandise does not include the after-rebate price.

407.1380. As used in sections 407.1380 to 407.1384, the following terms shall mean:

- (1) "Consumer", any individual;**
- (2) "Consumer credit reporting agency", any entity that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties;**
- (3) "Credit report", any written or electronic communication of any information by a consumer credit reporting agency that in any way**

11 bears upon a person's credit worthiness, credit capacity, or credit
12 standing;

13 (4) "Security freeze", a notice placed in a consumer's credit
14 report, at the request of the consumer, that prohibits the consumer
15 credit reporting agency from releasing the consumer's credit report or
16 any information contained in the report without the express
17 authorization of the consumer.

407.1382. 1. A consumer may request that a consumer credit
2 reporting agency place a security freeze on that consumer's credit
3 report, if that request is made:

4 (1) In writing by certified mail or personal delivery; or

5 (2) By other reliable means, including Internet, telephone, or
6 facsimile; and

7 (3) Proper identification is presented to adequately identify the
8 requestor as the consumer subject to the credit report.

9 2. A consumer credit reporting agency shall honor a consumer's
10 request for a security freeze, free of charge, within five days of receipt
11 of such request.

12 3. A consumer credit reporting agency shall, within ten days of
13 placing a security freeze on the consumer's credit report, send the
14 consumer:

15 (1) Written confirmation of compliance with the consumer's
16 request;

17 (2) Instructions explaining the process of placing, removing, and
18 temporarily lifting a security freeze and the process for allowing access
19 to information from the consumer's credit report for a specific
20 requestor;

21 (3) A unique personal identification number or password to be
22 used by the consumer to remove temporarily or permanently the
23 security freeze or designate a specific requestor for receipt of the
24 credit report despite the security freeze.

25 4. A consumer credit reporting agency shall not furnish a credit
26 report to any person if the consumer who is subject to the credit report
27 has requested a security freeze be placed on that report unless the
28 credit report:

29 (1) Is requested by the consumer who is subject to the report;

30 (2) Is furnished under a court order;

31 (3) Is furnished during a period in which the consumer has
32 temporarily removed the freeze;

33 (4) Is requested for the purposes of prescreening as provided by
34 the Fair Credit Reporting Act under 15 U.S.C. 1681 et seq.;

35 (5) Is requested by a child support enforcement agency;

36 (6) Is requested for use in setting or adjusting a rate, issuing or
37 underwriting a policy, adjusting a claim or servicing a policy for
38 underwriting for property and casualty insurance purposes;

39 (7) Is requested by a specific person whom the consumer has
40 identified as eligible for receipt of the credit report under subsection
41 6 of this section, despite the consumer's request for a security freeze;
42 or

43 (8) Is furnished to a person with whom the consumer has a
44 debtor-creditor relationship.

45 5. If a security freeze is in place, a consumer credit reporting
46 agency shall not change any of the following official information in a
47 consumer credit report without sending a written confirmation of the
48 change to the consumer within thirty days of the change being posted
49 to the consumer's file: name, date of birth, social security number, and
50 address. Written confirmation is not required for technical
51 modifications of a consumer's official information, including name and
52 street abbreviations, complete spellings, or transposition of numbers or
53 letters. In the case of an address change, the written confirmation shall
54 be sent to both the new address and to the former address.

55 6. A consumer may request that the consumer credit reporting
56 agency furnish a credit report to a designated person despite the
57 consumer request for a security freeze under subsection 1 of this
58 section, if that request is made:

59 (1) In writing by certified mail or personal delivery; or

60 (2) By other reliable means, including Internet, telephone, or
61 facsimile; and

62 (3) Proper identification is presented to adequately identify the
63 requestor as the consumer subject to the credit report.

64 7. A consumer credit reporting agency shall remove a security
65 freeze within three business days of receiving a request for removal
66 from a consumer when such consumer provides:

67 (1) Proper identification to adequately identify the requestor as

68 the consumer who is subject to the credit report; and

69 (2) The unique personal identification number or password
70 issued to the consumer for temporarily or permanently removing the
71 security freeze.

72 8. At any time a consumer is required to receive a summary of
73 rights under 15 U.S.C. Section 1681g(d), the following notice shall be
74 included:

75 "Missouri Consumers Have the Right to Obtain a Security Freeze.

76 You have a right to place a "security freeze" on your credit
77 report, which will prohibit a consumer credit reporting agency from
78 releasing information in your credit report without your express
79 authorization. A security freeze must be requested in writing by
80 certified mail or via other approved methods. The security freeze is
81 designed to prevent credit, loans, and services from being approved in
82 your name without your consent. However, you should be aware that
83 using a security freeze to take control over who gets access to the
84 personal and financial information in your credit report may delay,
85 interfere with, or prohibit the timely approval of any subsequent
86 request or application you make regarding a new loan, credit,
87 mortgage, government services or payments, rental housing,
88 employment, investment, license, cellular phone, utilities, digital
89 signature, Internet credit card transaction, or other services, including
90 an extension of credit at point of sale. When you place a security freeze
91 on your credit report, you will be provided a personal identification
92 number or password to use if you choose to remove the freeze on your
93 credit report or authorize the release of your credit report for a period
94 of time after the freeze is in place. To provide that authorization you
95 must contact the consumer credit reporting agency and provide all of
96 the following:

97 (1) The personal identification number or password;

98 (2) Proper identification to verify your identity;

99 (3) The proper information regarding the period of time for
100 which the report shall be available.

101 A consumer credit reporting agency must authorize the release
102 of your credit report no later than three business days after receiving
103 the above information.

104 A security freeze does not apply to a person or entity, or its

105 affiliates, or collection agencies acting on behalf of the person or
106 entity, with which you have an existing account, that requests
107 information in your credit report for the purposes of reviewing or
108 collecting the account. Reviewing the account includes activities
109 related to account maintenance, monitoring, credit line increases, and
110 account upgrades and enhancements.

111 You have a right to bring civil action against anyone, including
112 a consumer credit reporting agency, who improperly obtains access to
113 a file, knowingly or willfully misuses file data, or fails to correct
114 inaccurate file data.".

407.1384. 1. Any consumer credit reporting agency that fails to
2 comply with the provisions of sections 407.1380 to 407.1384 shall be
3 liable to the consumer who is subject to the credit report in an amount
4 equal to:

5 (1) Any actual damages sustained by the consumer due to such
6 failure; and

7 (2) Any court costs and fees assessed in maintaining the action,
8 as well as reasonable attorney's fees.

9 2. In addition to the foregoing monetary sums, a court, upon
10 request of the damaged consumer, shall award such equitable relief as
11 may be necessary to restore the damaged consumer's credit and to
12 discourage future violations of sections 407.1380 to 407.1384 by the
13 consumer credit reporting agency.

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