

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 10 MRSA §1210, as enacted by PL 2001, c. 210, §1 and amended by c. 471, Pt. E, §1, is repealed and the following enacted in its place:

§ 1210. Charges after free trial period

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Established business relationship" means a prior or existing relationship formed by a voluntary 2-way communication between a seller and a consumer with an exchange of consideration on the basis of the consumer's purchase from or transaction with the seller within the 18 months immediately preceding the date of a free offer.

B. "Free offer" means an offer of a rebate or of products or services without cost to a consumer by a seller under which, as a result of accepting the rebate, products or services, the consumer is required to contact the seller to avoid incurring a financial obligation for receiving additional products or services.

2. Prohibition. A seller may not make a free offer to a consumer in the State unless, at the time the consumer agrees to the free offer:

A. The seller obtains directly from the consumer information necessary for billing the consumer; and

B. The seller provides the consumer with clear and conspicuous information regarding the terms of the free offer, including any additional financial obligations that may be incurred as a result of accepting the free offer.

Sec. 2. 10 MRSA §1210-A, as enacted by PL 2001, c. 210, §1, is amended to read:

§ 1210-A.Violation

A merchant whoseller that violates this chapter commits an unfair and deceptive act and a violation of Title 5, section 207.

Sec. 3. 10 MRSA §1210-B, sub-§1, as enacted by PL 2001, c. 471, Pt. E, §2, is repealed.

Sec. 4. 10 MRSA §1210-B, sub-§1-A is enacted to read:

1-A. Established business relationships. A free offer when the seller and the consumer have an established business relationship. The consumer's established business relationship with the seller does not extend to affiliates of the seller, unless the consumer would reasonably expect an affiliate to be included given the nature and type of goods or services offered by the affiliate and the identity of the affiliate.'

SUMMARY

This amendment replaces the bill and makes the following changes to the laws governing required disclosures to consumers.

The amendment repeals the current prohibition on charges after a trial period and instead prohibits a seller from making a free offer to a consumer in Maine unless, at the time the consumer agrees to the free offer, the seller obtains directly from the consumer information necessary for billing the consumer and the seller provides the consumer with clear and conspicuous information regarding the terms of the free offer, including any additional financial obligations that may be incurred as a result of accepting the free offer.

The amendment also repeals the current exception for sales under \$25 and adds a new exception for free offers where the seller and the consumer have an established business relationship. The consumer's established business relationship with the seller does not extend to affiliates of the seller, unless the consumer would reasonably expect an affiliate to be included given the nature and type of goods or services offered by the affiliate and the identity of the affiliate.