

SENATE BILL REPORT

SB 6203

As of January 20, 2006

Title: An act relating to requiring businesses to offer rain checks for out of stock advertised merchandise.

Brief Description: Requiring businesses to issue rain checks for out of stock advertised items.

Sponsors: Senators Jacobsen, Keiser and Kohl-Welles.

Brief History:

Committee Activity: Financial Institutions, Housing & Consumer Protection: 1/12/06.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Staff: Jennifer Arnold (786-7471)

Background: Currently, there are statutory provisions against false advertising, under which it is a criminal misdemeanor to intentionally advertise untrue, deceptive, or misleading statements. However, there are no statutes that specifically address the issuance of rain checks by merchants in relation to advertised sales or promotional giveaways.

Summary of Bill: No individual or business entity can offer: (1) a promotional giveaway of retail items, or (2) sell, offer to sell, or advertise discounted items without offering a rain check for the sale or promotional items that are out-of-stock during the advertised sale period.

However, rain checks are not required to be issued when the quantity of available sale or promotional items is clearly indicated in all sale advertisements or the customer accepts a comparable discount on a comparable item.

Violation of these provisions is an unfair business practice.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This legislation is necessary in order to take the pressure off shoppers and relieve the mayhem that follows certain sales, such as Black Friday after Thanksgiving. Crowd control has become a serious problem, resulting in a number of customers being injured. Further, failing to have sufficient supplies of an advertised product can be a form of bait and switch. Merchants should be required to be more conscientious of the potential customer response to their ads and do better planning.

Testimony Against: Merchants have to plan up to six weeks in advance to have some ads published in the newspaper. In which event, this bill would be particularly problematic for merchants of perishable produce, as well as small retailers in general that are already struggling to compete against large chain stores for customers.

Testimony Other: This bill may not be the best way to ensure an orderly process to handle customers. The definition of "rain check" needs revisions.

Who Testified: PRO: Senator Jacobsen, prime sponsor.

CON: Jan Gee, Washington Retail Association, Washington Food Industry.

OTHER: Steve Gano, Wal-Mart.