

# HOUSE BILL 1469

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By: **Delegates F. Turner and Frick**

Introduced and read first time: February 22, 2013

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Consumer Goods Offered at a Sale Price – Rain**  
3 **Checks**

4 FOR the purpose of prohibiting a certain merchant from selling, offering for sale, or  
5 advertising for sale consumer goods at a certain discount without offering a rain  
6 check to consumers; providing that a consumer is not entitled to receive a  
7 greater number of rain checks per consumer good than is allowed under a  
8 merchant's advertised limit; requiring certain merchants to notify the holder of  
9 a rain check when the consumer goods for which the rain check was issued are  
10 in stock; providing that a consumer shall have a certain number of days to  
11 purchase the consumer goods at the sale price; requiring a merchant, under  
12 certain circumstances, to offer the holder of a rain check similar or comparable  
13 consumer goods at a certain price; providing that a violation of certain  
14 provisions of this Act is an unfair or deceptive trade practice within the  
15 meaning of the Maryland Consumer Protection Act and is subject to certain  
16 penalty and enforcement provisions; establishing a certain defense; providing  
17 that the defense does not relieve a merchant of certain duties; providing for the  
18 application of this Act; defining certain terms; and generally relating to rain  
19 checks for consumer goods sold, offered, or advertised at a sale price.

20 BY adding to

21 Article – Commercial Law  
22 Section 14–1324  
23 Annotated Code of Maryland  
24 (2005 Replacement Volume and 2012 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

27 **Article – Commercial Law**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 14-1324.

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
3 MEANINGS INDICATED.

4 (2) "CONSUMER" MEANS A PURCHASER OR PROSPECTIVE  
5 PURCHASER OF CONSUMER GOODS.

6 (3) "CONSUMER GOODS" MEANS GOODS THAT ARE PRIMARILY  
7 FOR PERSONAL, HOUSEHOLD, OR FAMILY PURPOSES.

8 (4) "MERCHANT" MEANS A PERSON THAT, DIRECTLY OR  
9 INDIRECTLY, OFFERS OR MAKES AVAILABLE TO CONSUMERS CONSUMER GOODS.

10 (5) "RAIN CHECK" MEANS A WRITTEN VOUCHER THAT ASSURES A  
11 CONSUMER THAT CONSUMER GOODS THAT ARE OFFERED FOR SALE BY A  
12 MERCHANT AT A DISCOUNT FROM THE REGULAR RETAIL PRICE AND ARE SOLD  
13 OUT OR OUT OF STOCK DURING THE ADVERTISED SALE PERIOD MAY BE  
14 PURCHASED LATER AT THE SALE PRICE.

15 (B) (1) THIS SECTION DOES NOT APPLY TO SALES OF:

16 (I) MOTOR VEHICLES;

17 (II) ALCOHOLIC BEVERAGES; OR

18 (III) CONSUMER GOODS, INCLUDING ITEMS OF CLOTHING OR  
19 FOOTWEAR, THAT ARE SEASONAL IN NATURE AND THE STOCK OF WHICH  
20 CANNOT BE REPLENISHED.

21 (2) THIS SECTION DOES NOT APPLY IF:

22 (I) THE DISCOUNT OFFERED APPLIES THROUGHOUT A  
23 STORE OR A DEPARTMENT IN A STORE;

24 (II) THE CONSUMER GOODS ARE OFFERED FOR SALE AS  
25 PART OF A CLEARANCE, PERMANENT MARKDOWN, OR CLOSEOUT SALE;

26 (III) ALL ADVERTISEMENTS FOR THE SALE CLEARLY  
27 INDICATE THE QUANTITY OF CONSUMER GOODS AVAILABLE AT THE SALE PRICE  
28 AND THAT NO RAIN CHECKS ARE BEING OFFERED; OR

1                   **(IV) THE CONSUMER ACCEPTS A COMPARABLE DISCOUNT**  
2 **ON COMPARABLE CONSUMER GOODS.**

3           **(C) (1) A MERCHANT MAY NOT SELL, OFFER FOR SALE, OR**  
4 **ADVERTISE CONSUMER GOODS FOR SALE AT A DISCOUNT FROM THE NORMAL**  
5 **RETAIL PRICE WITHOUT OFFERING A RAIN CHECK TO CONSUMERS.**

6                   **(2) A CONSUMER IS NOT ENTITLED TO RECEIVE A GREATER**  
7 **NUMBER OF RAIN CHECKS PER CONSUMER GOOD THAN IS ALLOWED UNDER THE**  
8 **MERCHANT'S ADVERTISED LIMIT.**

9                   **(3) A MERCHANT, OTHER THAN A RETAIL FOOD STORE, SHALL**  
10 **NOTIFY THE HOLDER OF A RAIN CHECK WHEN THE CONSUMER GOODS FOR**  
11 **WHICH THE RAIN CHECK WAS ISSUED ARE IN STOCK.**

12                   **(4) A CONSUMER SHALL HAVE 10 DAYS AFTER THE DATE OF THE**  
13 **NOTICE REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION TO PURCHASE**  
14 **THE CONSUMER GOODS AT THE SALE PRICE.**

15                   **(5) IF A MERCHANT HAS NOT REDEEMED A RAIN CHECK WITHIN**  
16 **60 DAYS AFTER ITS ISSUANCE, THE MERCHANT SHALL OFFER THE HOLDER OF**  
17 **THE RAIN CHECK SIMILAR OR COMPARABLE CONSUMER GOODS AT OR BELOW**  
18 **THE ADVERTISED SALE PRICE OF THE CONSUMER GOODS FOR WHICH THE RAIN**  
19 **CHECK WAS ISSUED.**

20                   **(6) A CONSUMER SHALL HAVE 60 DAYS AFTER THE OFFER MADE**  
21 **UNDER PARAGRAPH (5) OF THIS SUBSECTION TO PURCHASE THE SIMILAR OR**  
22 **COMPARABLE CONSUMER GOODS.**

23           **(D) (1) IT IS A DEFENSE TO ANY ACTION BROUGHT AGAINST A**  
24 **MERCHANT FOR A VIOLATION OF SUBSECTION (C) OF THIS SECTION THAT:**

25                   **(I) THE MERCHANT ORDERED THE CONSUMER GOODS**  
26 **THAT WERE THE SUBJECT OF THE SALE IN ADEQUATE TIME FOR DELIVERY; AND**

27                   **(II) THE CONSUMER GOODS WERE DELIVERED TO THE**  
28 **MERCHANT'S PLACE OF BUSINESS IN QUANTITIES SUFFICIENT TO MEET**  
29 **REASONABLY ANTICIPATED DEMAND FOR THE CONSUMER GOODS.**

30                   **(2) THE DEFENSE PROVIDED UNDER PARAGRAPH (1) OF THIS**  
31 **SUBSECTION DOES NOT RELIEVE A MERCHANT FROM THE DUTY TO:**

1                   **(I) OFFER A RAIN CHECK TO A CONSUMER AS REQUIRED**  
2 **UNDER SUBSECTION (C)(1) OF THIS SECTION; OR**

3                   **(II) OFFER SIMILAR OR COMPARABLE CONSUMER GOODS**  
4 **TO THE HOLDER OF A RAIN CHECK AS REQUIRED UNDER SUBSECTION (C)(5) OF**  
5 **THIS SECTION.**

6           **(E) A VIOLATION OF SUBSECTION (C) OF THIS SECTION IS:**

7                   **(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE**  
8 **MEANING OF TITLE 13 OF THIS ARTICLE; AND**

9                   **(2) SUBJECT TO THE PENALTY AND ENFORCEMENT PROVISIONS**  
10 **CONTAINED IN TITLE 13 OF THIS ARTICLE.**

11           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2013.