

**NEW YORK CITY
CONSUMER
PROTECTION LAW
IN BRIEF**

The New York City Department of Consumer Affairs

**Consumer
Affairs
Rules for
Businesses**

The **New York City Consumer Protection Law** was enacted by the City Council in 1969.

The law authorizes the Department of Consumer Affairs to adopt rules and regulations that protect the public from all “deceptive or unconscionable trade practices in the sale, lease, rental or loan ... of any consumer goods and services, or in the collection of consumer debts.”

The complete current rules of the **Consumer Protection Law** are listed in the *Official Compilation of the Rules of the City of New York* Title 6, Chapter 5 (Albany: New York Legal Publishing Company).

The list below includes rules that consumers and businesses need to know. They are some of the most commonly cited rules in consumer disputes and complaint cases.

Advertising

RULE 5-06. THE WORD “FREE,” AND SIMILAR REPRESENTATION

Any limitations or conditions imposed on a “**free**” offer must be disclosed in advertising (but not on packages). A description of the condition (not an asterisk plus footnote) must be near the word “**free**” in type at least half as large. A seller may not make a free offer in connection with the sale of an item that is usually sold at a price negotiated with consumers. If a seller offers a free item with the purchase of another item, the item to be purchased may not be priced higher than its regular selling price.

5-07. NUMBER SIZE OF ADVERTISED PRICES

The cents figure must be at least one-half the height and one-half the width of the dollar figure in advertising, except when the price is a whole dollar amount. The “zero cents” figure can be any size.

5-09. LIMITATIONS ON OFFER

Any limitations or conditions on advertised offers must be disclosed clearly and conspicuously in print advertising, and announced in television and radio advertisements.

5-10. DECEPTIVE CLASSIFIED ADS

In classified advertising, all business entities must clearly identify themselves as such. Use of such terms as “**broker**” or “**dealer**” will satisfy this requirement.

5-11. LIMITED EDITIONS

Items may not be called “**limited**” unless there is a predetermined maximum quantity available, or a reasonably short ordering period. All ads must clearly and conspicuously state the number of copies produced, or the length of time the product will be offered for sale.

If a range of prices is stated or implied, the highest price as well as the lowest price must be stated in figures equally as tall and broad. Examples of violations: “Watches from \$9.95”; “Dresses \$3.00 and Up.”

5-64. VOCATIONAL TRAINING ADVERTISING

Vocational training schools may not falsely represent the salary that **will** be earned, or that people in that field earn. They must disclose any other conditions or requirements for a job (such as union membership). If a placement service is advertised, any

conditions for qualification must also be clear. Also, government approval of the vocational training may not be misrepresented.

5-65. OUT-OF-CONTEXT QUOTES

Quotations from critics' reviews of movies, plays, or books may not be taken out of context in advertising (including on the marquee).

Contracts and Receipts

5-31. FUTURE SERVICE CONTRACTS

Consumers who wish to cancel contracts for services to be rendered in the future on a continuing basis, such as dancing lessons, may not be charged more than 5% of the cash price up to \$50, plus the equivalent value of the service already used by the consumer. Further, a cancellation provision must be included in the contract. Refunds must be available within 10 days of cancellation. **CAUTION:** This rule is preempted by state law on health spas and some schools.

5-32. RECEIPTS

On purchases of \$20 or more, consumers must be offered a receipt showing the total amount of money paid, including a separate statement of tax, the date, and the actual business name and address of the merchant. For purchases between \$5 and \$20, the receipt must be given if requested by the consumer. Receipts must be itemized. Register tapes are not acceptable unless they comply with this regulation. Receipts must also include the make and model number of the purchased equipment. Upon request, the vendor must provide the consumer with a copy of any document which s/he signed relating to a sale, e.g. contract, loan agreement, etc. **EXEMPT:** Food or drink for consumption on the premises; oil or gasoline from a gas station pump. **NOTE:** State Tax Law requires that sales tax be listed separately.

5-33. TRANSACTION NEGOTIATED IN SPANISH

When essential parts of a consumer agreement are negotiated in Spanish, the consumer must be given a written Spanish translation of any documents related to the agreement. This does not apply to any document that the consumer will receive at a later date. **NOTE:** This applies to the purchase of consumer goods or services that will be paid in installments.

5-34. CONTRACT CANCELLATIONS

A contract for consumer services or goods may not be described as "**non-cancelable**" or "**not subject to cancellation.**" Such terms may be used with a statement of a fee or penalty for cancellation, for example: "**This contract is not cancelable unless you pay a cancellation fee of \$5.**"

5-40. LIABILITY FOR NEGLIGENCE

Language disclaiming responsibility for negligence on contracts, claim checks, and receipts are invalid when used by: caterers, contractors, architects, engineers, surveyors, garage or parking lot operators, landlords, and pool, gymnasium, public amusement operators.

5-49. DOOR TO DOOR SALES

Starting with the initial contact (including telephone contact), door-to-door salesmen

must state that the purpose of their visit is to try to make a sale, and they must give a general description of the goods.

5-60. FRANCHISES

Each franchisee must disclose that the franchiser and franchisee are separate businesses in addition to the true legal name of both by posting a sign and writing it on each sales contract \$50 or more. Credit card receipts are exempt from this procedure if a sign is posted near the register. Ads and promotions must state whether they are available at all outlets. If a warranty is not transferable to other outlets, this must be disclosed.

5-63. CATERING CONTRACTS

If a consumer cancels a catering contract less than six months prior to the reserved date, and if the caterer can rebook, the cancellation fee is limited to 5% of the contract price or \$100.00, whichever is less, plus reasonably incurred expense (*e.g. printing napkins*). If the caterer cannot rebook, the fee is limited to the contract price minus the caterer's projected costs in addition to expenses reasonably incurred.

If the cancellation occurs more than six months before the date, the presumption is that the caterer can rebook. Contract forms must conspicuously disclose the cancellation fee. Refunds must be mailed within 30 days of re-booking. A caterer may not delegate performance of a contract to another caterer without the consumer's consent.

5-68. DEALERS AT FLEA MARKETS

A dealer at a flea market must provide consumers with itemized, serialized receipts which must list the date, total amount of money spent and tax paid, and the true name and address of the seller. The dealer must keep copies of all receipts for three (3) years.

Credit

5-21. CONSUMER CREDIT AND COMPLIANCE WITH THE LAW

Any person or business extending consumer credit must comply with all applicable federal, state and local laws, including the *Fair Debt Collection Practices Act; Fair Reporting Act; Equal Credit Opportunity Act and NYC Consumer Protection* (see Law Rule 5-77, DEBT COLLECTION PRACTICES, below).

5-24. CREDIT CARD LIMITATIONS

Merchants who accept payment by credit card must also disclose any limitations on the use of the card. Disclosure must be conspicuously posted at the entrance to the store and in any ads that indicate the credit card acceptance.

5-62. HOME HEATING OIL CREDIT

Home heating oil dealers may not impose credit terms more stringent than those in effect during the 1978-1979 heating season, unless the dealer can show their supplier or creditor has imposed similar restrictions.

**Debt
Collection**

5-77. DEBT COLLECTION PRACTICES

This rule supplements the Federal Fair Debt Collection Practices Act. It is applicable to “In-house” collectors, in addition to collection agencies and individual collectors in the collection of consumer debts.

In trying to locate the consumer, the debt collector may not contact a third party (*e.g.* employer, friend, relative) more than once. The collector is not allowed to indicate that the person s/he is looking for owes money.

The collector may not call the consumer between 9 P.M. and 8 A.M., nor may the collector call with “excessive frequency” (more than twice a week). The collector is not allowed to call a consumer at work if the collector has reason to believe the consumer’s employer would disapprove.

Harassment or abuse of consumers are prohibited. **EXAMPLES:** Threats of violence; obscene or profane language; advertisement of a debt; and anonymous calls.

The creditor or collector must send the consumer written notice indicating amount of debt; to whom it is owed; and when it is due. The statement must also inform the consumer of the right to dispute validity of the debt.

If the consumer disputes the debt in writing, the creditor must respond with an explanation. All collection proceedings must stop until this is done.

Collectors may not misrepresent their credentials. They may not send documents that are designed to look like government papers or legal forms. They may not threaten action that cannot be legally taken, such as: “You will be arrested if you don’t pay,” or action that they do not intend to take.

The consumer has the right to tell a collector to stop contacting him/her, and then the collector will only be able to send one further communication indicating what action will be taken. Example: “Final notice. If you refuse to pay, we will sue.”

NOTE: Any agency that attempts to collect consumer debts in New York City must be licensed by the Department of Consumer Affairs.

5-56. WINDOW GATES

A window gate or bar that has not been approved by the NYC Board of Standard & Appeals for use on fire-escape windows cannot be sold unless the seller places a tag or warning on it stating that its use is illegal and unsafe on fire escape windows.

NOTE: Do not confuse this rule with a landlord’s obligation to provide window guards enforced by the **Health Department**.

**Packaging
and
Standards**

5-58. FOOD IN DAMAGED CONTAINERS

Food may not be sold in leaking, rusted, bloated, or excessively dented cans, punctured packages, or vacuum-sealed containers where the vacuum has been unsealed.

5-69. BLOOD-PRESSURE READING SERVICES

In addition to possessing a “**General Vendor’s**” license, blood-pressure reading services which charge a fee or accept donations while operating in a public space or within a retail establishment must conspicuously post a sign (at least 12” high x 18” wide, with letters 1” high x ¼” wide) containing the following language:

Blood pressure readings vary, depending upon the skill and experience of the operator, the conditions under which the reading is obtained, any medication taken by the individual, and other factors such as age, weight and physical condition.

I AM NOT A LICENSED OR CERTIFIED
HEALTH PROFESSIONAL TRAINED TO TAKE
BLOOD-PRESSURE READINGS.

IF YOU HAVE ANY QUESTIONS ABOUT YOUR
BLOOD PRESSURE,
SEE YOUR DOCTOR.

Pricing, Sales and Refund Policies

5-35. DISCLOSURE OF MANUFACTURER’S SUGGESTED PRICES

Merchants who offer new merchandise for sale for any amount greater than the manufacturer’s suggested list price (MSRP) or catalog price must clearly and conspicuously disclose the selling price and the MSRP on the price tag or label and identify the MSRP as such.

5-36. SALE OF USED ITEMS

A seller of **used** merchandise must clearly disclose that the items are **not new** by means of words such as “**used,**” “**antique,**” “**floor model,**” “**demonstrator,**” “**rebuilt,**” in any advertisement or sales transaction. **NOTE:** Anyone selling used items in New York City should be licensed by the Department of Consumer Affairs.

5-37. DISCLOSURE OF REFUND POLICY

Merchants who do not give cash refunds for non-defective, unused merchandise must conspicuously post a sign at the cash register, at the store entrance or at the point where the goods are displayed, disclosing their refund policy, credit or exchange policy and the conditions under which it applies. If there is no sign, a consumer has 20 days to get a refund. **EXEMPT:** Food, perishables, custom-made or custom-finished goods, and items sold “**as is.**”

5-38. GOODS TEMPORARILY IN SHORT SUPPLY

When the Commissioner declares that any item is temporarily in short supply because of “**extraordinary circumstances**” (*e.g.* due to a snowstorm, fuel shortage, etc.), a merchant may not increase prices beyond a level needed to reflect normal market fluctuations apart from the shortage. The only exception is when the seller incurs additional cost through no fault of his/her own by providing the item or attempting to provide additional opportunities to purchase the item. Any conditions or limitations on the sale of this item must be conspicuously posted on a sign.

5-51. RETAIL SALE OF GASOLINE

A gas dealer may not give preferential treatment to certain customers, require the purchase of other goods as a precondition for gas purchase, or deny having gasoline when it is actually available.

5-54. REPAIR OF CONSUMER GOODS

Repair persons must provide written estimates; get written authorization to begin work; offer to return replaced parts to the consumer; and charge a total price no more than 20% above the original written estimate. Both the estimate and final bill must be broken down by parts and labor and any other charges. The exact name and business address must be given if repairs are to be done outside the home. The estimate must give a promised completion date.

If complete repairs are delayed for an “unreasonable” period of time, the consumer has the right to an immediate return of the property. If it is impossible for an estimate to be made until the repairer has examined the item, the estimate may be postponed. In that case a receipt must be drawn up which includes any charges for the estimate, pick up, and delivery of the item, and any other charges that the consumer must pay even if s/he does not authorize the repair.

EXEMPT: “Service contract” repairs (contract of at least one year); warranty repairs; and repairs estimated at \$15 or less. Under no circumstance, however, may the cost exceed 20% of the estimate. **NOTE:** Anyone in New York City offering to repair electronic or home appliances, or offering repair service contracts in connection with such goods, must be licensed by the Department of Consumer Affairs.

5-59. RESTAURANT SURCHARGES

Restaurants are prohibited from adding a surcharge to the cost of items listed on the menu, *i.e.*, if they want to raise prices, they must change the individual prices on the menu, not just add a surcharge.

EXEMPT: Bona-fide service charges for persons sharing one meal, a personal minimum conspicuously posted, and businesses that are solely “take-out.”

5-67. ITEM PRICING IN FOOD STORES

Stores are required to mark individually the prices of most food items. This applies to stores, or chains, doing at least \$2 million of business yearly. Exemptions include frozen foods and sales items that appear in special displays.

Promised Services

5-39. CANCELLATION OF HOME APPOINTMENTS

An appointment for delivery, pick up, inspection, or repair at a consumer’s home must be kept unless the consumer is notified by the end of the preceding business day or as soon as practicably possible. Verbal notice must generally be followed by written notice. Records of cancellations and delay must be kept for one year. Employee illness or mechanical breakdown do not excuse failure to notify, but natural disasters or strikes do.

5-46. CAR RENTAL

Car rental agencies must honor all reservations within one half-hour after the reserved time at the reserved price, unless the consumer has been told that the reservation is not

guaranteed. If the reserved vehicle is unavailable, the consumer must be given a car that seats as many passengers and is suitable for the consumer's purposes. **NOTE:** A sign must be posted informing consumers of their rights under this rule.

5-47. JEWELRY SELLERS AND APPRAISERS

Every written appraisal must state the standard of monetary value used (*e.g., retail replacement*). Persons engaged in the sale or appraisal of jewelry may not misrepresent the nature of an article of jewelry and must disclose that jewelry appraisals may vary as much as 25%. For sales of more than \$75, very detailed sales slips must be given.

NOTE: "Jewelry" means unset rare gems, precious and semi-precious stones, and articles for personal wear containing such gems and stones. It does not include gold, silver, platinum or other precious metals.

5-48. MAIL ORDERS

Mail-order firms located in New York City must send merchandise within 30 days of the time ordered, or else they must inform the customer of the anticipated date of delivery, offer the option of a refund, or substitute merchandise of equivalent or superior quality. (If the ad says to allow more than 30 days for delivery, the time limit is extended to the date in the ad). Firms advertising must give their legal name and address, in addition to the post office box.

5-50. DELIVERY OF FURNITURE AND MAJOR APPLIANCES

In the sale of furniture, major appliances, including audiovisual equipment, carpets and rugs, the seller must give the buyer a delivery date at the time the contract or sales slip is signed or written up. If the furniture is not delivered by the delivery date, the buyer has the following options: cancel with full refund; get a new delivery date; receive a credit; or select different furniture. Refunds must be paid within two weeks and consumers have the same rights on the new delivery date as with the old date.

EXEMPT: This rule does not apply to "custom-made" furniture; appliances costing \$200 or less; or if the failure to deliver is caused entirely by the consumer.

NOTE: A range of delivery dates may also be given. If this is the case, the provisions of this rule apply to the latest estimated delivery date.

5-57. UTILITY BILL PAYMENTS

Any business that accepts payment for utility bills without authorization from the Public Utility must forward payment to the utility within 24 hours of its receipt. The business must give the consumer a signed receipt indicating the date and the amount paid, the name and address of the person accepting payment and the name and address of the person or entity for whom payment was accepted (if different). The consumer's bill must be stamped with the date it was accepted.

5-61. PUBLIC PERFORMANCE SEATS

The seller of seats for performances of public amusement or sport must conspicuously post a diagram or a sign stating a diagram is available and easily readable. Obstructed-view seats may not be sold unless the fact is disclosed on the ticket. In selling tickets over the telephone, the number of seating levels in the theater, as well as the seating level on which the tickets offered are located must be disclosed.

5-66. TAX PREPARATION

Tax preparers must sign every return disclosing their true business names; provide a copy of each return to the consumer; give an itemized bill; return all personal papers to the consumer; and provide representation at any audit if that service has been promised. They may not disclose any details of the return to any unauthorized person, nor may they alter any entries after the taxpayer has signed. Tax preparers may not claim to give taxpayers an "instant tax refund" that is actually an interest bearing loan, unless that fact is clearly disclosed. Any advertisement for a Refund Anticipation Loan must state conspicuously that the lender will charge a fee or interest, and it must identify the lender.

Tax preparers are required to provide a consumer bill of rights to prospective clients.

EXEMPT: Attorneys, public accountants and their employees, trustees, employees of a business who prepare returns relating to that business, and government employees who do this as part of their job are exempt.

5-08. SALES PROMOTIONS

If a prize is offered to a prospective customer on the condition that the customer submit to a sales promotion, then the customer must be informed of this in writing at the time s/he is notified of the prize. This written disclosure must contain: a full description of the exact prize, including its cash value, as well as the price of the least and most expensive item or parcel; a statement of all the terms and conditions attached to the prize; and a statement that the customer must submit to a sales promotion.

5-23. LAYAWAY PLANS

A "**layaway plan**" is an installment payment plan that requires at least four payments for an item purchase over \$50. A merchant must disclose in writing the terms of the layaway plan, including the following: full description and total cost of item; tax; additional charges, if any, for delivery, layaway plan use, and cancellation; duration of the plan; payment schedule; any late charges or penalties for missed payments; the store's refund policy; and where and when merchandise will be held for the consumer, including whether it has been removed from inventory.

5-53. "SPECIALS" IN FOOD STORES

Food stores advertising "specials" must have an adequate supply of the advertised items that must be readily available at the advertised price. Limitations regarding stores, products, or prices must be clearly disclosed.

NOTE: Rain checks are not mandatory, nor will they automatically absolve the store from liability for a violation.

*Special
Offers,
Sales and
Promotions*

Michael R. Bloomberg
Mayor

Jonathan Mintz
Commissioner



The New York City Department of Consumer Affairs works to ensure that consumers and businesses benefit from a fair and vibrant marketplace.

If you would like more information about the work of the agency or our new strategic initiatives, please call **3-I-I** or contact:

The New York City Department of Consumer Affairs
42 Broadway
New York, NY 10004-1617

www.nyc.gov/consumers

If you have a consumer-related complaint, call DCA at 311 or (212) NEW-YORK.

New York City employees are not allowed to ask for or accept anything of value, such as money, gifts, or tips for doing their job. To report corruption, contact the New York City Department of Investigation at www.nyc.gov/doi.