



792582

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/10/2015	.	
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The Committee on Commerce and Tourism (Ring) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 30 - 88

and insert:

Section 1. Section 501.142, Florida Statutes, is amended to read:

501.142 Retail sales establishments; preemption; ~~notice of~~ refund policy requirements; exceptions; penalty.—

(1) The regulation of refunds is preempted to the Department of Agriculture and Consumer Services notwithstanding



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11 any other law or local ordinance to the contrary, provided that  
12 a local government may enforce the provisions of this section as  
13 specified in subsection (8).

14 (2) Notwithstanding the Uniform Commercial Code, each every  
15 retail sales establishment offering goods for sale to the  
16 general public must grant a cash refund or credit refund to a  
17 consumer for goods returned within 3 business days after the  
18 date of purchase if all of the following conditions are met:

19 (a) The purchase exceeds \$1,000, excluding tax.

20 (b) The goods are unused and in the original carton, if a  
21 carton was furnished.

22 (c) The consumer, or a representative of the consumer,  
23 provides the retailer with proof of purchase and documentation  
24 establishing that:

25 1. The consumer has been adjudicated incapacitated pursuant  
26 to chapter 744 or under similar law in another state;

27 2. The consumer is subject to a guardianship pursuant to  
28 chapter 744 or similar law in another state, and the guardian  
29 has the authority to determine the consumer's right to manage  
30 property; or

31 3. A power of attorney or a durable power of attorney  
32 pursuant to chapter 709 or similar law in another state is  
33 currently exercisable by the consumer's agent, and the consumer  
34 has been diagnosed with a medical condition that causes him or  
35 her to lack sufficient understanding or capacity to make or  
36 communicate reasonable decisions concerning his or her person or  
37 property, which is evidenced by a written statement signed by a  
38 physician licensed pursuant to chapter 458 or chapter 459 or  
39 licensed to practice medicine under the laws of another state.



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40           (3) (a) Except as provided in subsection (2), a retail sales  
41 establishment offering goods for sale to the general public may  
42 refuse to offer a that offers no cash refund, credit refund, or  
43 exchange for the purchase if the retailer posts of merchandise  
44 must post a sign at the point of sale so stating that refunds or  
45 exchanges are not allowed at the point of sale. Failure of a  
46 retail sales establishment to exhibit a "no refund or exchange"  
47 sign at the point of sale under such circumstances at the point  
48 of sale shall mean that a refund or exchange policy exists, and  
49 the policy must shall be presented in writing to the consumer  
50 upon request.

51           (b) A Any retail sales establishment that violates this  
52 subsection must failing to comply with the provisions of this  
53 section shall grant to the consumer, upon request and proof of  
54 purchase, a refund for the purchase on the merchandise, within 7  
55 days after of the date of purchase, if provided the goods are  
56 merchandise is unused and in the original carton, if one was  
57 furnished. This section does not Nothing herein shall prohibit a  
58 retail sales establishment from having a refund policy that  
59 which exceeds 7 the number of days and specified herein.  
60 However, this subsection does not prohibit a local government  
61 from enforcing the provisions established by this section.

62           (4) (2) The provisions of This section does shall not apply  
63 to the sale of food, perishable goods, goods that which are  
64 custom made, goods that which are custom altered at the request  
65 of the customer, or goods that which cannot be resold by the  
66 merchant because of any law, rule, or regulation adopted by a  
67 governmental body.

68           (5) (3) If the department finds that a person has violated



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69 or is operating in violation of:

70 (a) Subsection (2), the department shall enter an order  
71 that

72  
73 ===== T I T L E A M E N D M E N T =====

74 And the title is amended as follows:

75 Delete lines 7 - 19

76 and insert:

77 been adjudicated incapacitated, is subject to a  
78 certain type of guardianship, or has a certain medical  
79 condition, if specified requirements are satisfied;  
80 requiring restitution and providing penalties for a  
81 violation of the requirements; making technical  
82 changes; amending s. 501.95, F.S.; conforming a cross-  
83 reference; providing an effective date.WHEREAS, the  
84 Legislature finds that persons who are incapacitated,  
85 are subject to certain types of guardianships, or have  
86 been diagnosed with a medical condition causing a lack  
87 of capacity to make reasonable decisions need  
88 additional protections in consumer transactions  
89 involving costly purchases, and