

SENATE BILL NO. 152

BY SENATOR CROWE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONSUMERS/PROTECTION. Requires retailers who sell or distribute goods or services with an age restriction or recommendation to verify the age of the purchaser. (1/1/10)

1 AN ACT

2 To enact R.S. 51:1427, relative to unfair or deceptive trade practices; to prohibit certain

3 materials from being sold or distributed without proof of age; to limit liability; to

4 provide for penalties; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 51:1427 is hereby enacted to read as follows:

7 **§1427. Unfair or deceptive trade practices; sale or distribution of goods or**

8 **services with age restrictions or recommendation**

9 **A. It shall be an unfair or deceptive trade practice for any retail business**

10 **to sell or distribute any goods or services which are labeled with an age**

11 **restriction or recommendation on the packaging to any person who is under the**

12 **restricted or recommended age.**

13 **B. It shall be an unfair or deceptive trade practice for any retail business**

14 **to sell or distribute any goods or services which are advertised with an age**

15 **restriction or recommendation to a person who is under the restricted or**

16 **recommended age.**

17 **C. Prior to the sale or distribution of any goods or services defined in**

1 Subsection (A) and (B) of this Section, the merchant shall require the purchaser
2 to provide a driver's license or government identification card to establish the
3 age of the purchaser or recipient.

4 D.(1) Any retail establishment which sells or distributes goods or
5 services, which are labeled or advertised with an age restriction or
6 recommendation, shall post a sign on the door of the establishment and at the
7 cash register which reads as follows:

8 "We card! The sale or distribution of any goods or services, which has
9 an age restriction or recommendation, will not be sold to any person without a
10 valid driver's licenses or state issued identification card."

11 E.(1) The owner of a retail establishment shall not be held liable under
12 the provisions of this Section on the basis of vicarious liability if:

13 (i) The owner has participated in the responsible vendor program
14 provided for in R.S. 26:932, et seq.

15 (ii) The employee, who provided the goods or services, timely attended
16 the training program provided for in R.S. 26:934(2) in order to determine when
17 identification cards are valid.

18 (iii) The owner took appropriate remedial action, including the
19 retraining of the employee.

20 (2) The buyer intentionally misrepresented the buyer's age by
21 presenting false age identification at the time the goods or services were
22 provided.

23 F. It shall be an unfair or deceptive trade practice if the employee
24 described in Paragraph (1) of Subsection (E) of this Section, provides goods or
25 services a third or subsequent time to a buyer subject to an age restriction or
26 recommendation.

27 G. Any violation of Subsections (A) or (B) of this Section shall be
28 deemed an unfair or deceptive trade practice and shall subject the violator to
29 any and all action and penalties provided for in this Chapter.

1 Section 2. This Act shall become effective on January 1, 2010.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

Present law provides that the attorney general has the authority to protect the public, investigate and restrain unfair or deceptive trade practices.

Proposed law retains present law and provides that it will be an unfair or deceptive trade practice for any retail business to sell or distribute any goods or services which are labeled with an age restriction or recommendation on the packaging to any person who is under the restricted or recommended age.

Proposed law retains present law and provides that it will be an unfair or deceptive trade practice for any retail business to sell or distribute any goods or services which are advertised with an age restriction or recommendation to a person who is under the restricted or recommended age.

Proposed law provides that, prior to the sale or distribution of any goods or services which has an age restriction, the merchant will require the purchaser to provide a driver's license or government identification card to establish the age of the purchaser or recipient.

Proposed law provides that any retail establishment, which sells or distributes goods or services which are labeled or advertised with an age restriction or recommendation, will post a sign on the door of the establishment and at the cash register which reads as follows:

"We card! The sale or distribution of any goods or services which has an age restriction or recommendation will not be sold to any person without a valid driver's licenses or state issued identification card."

Proposed law provides that the owner of a retail establishment will not be held liable for the unfair trade practice if the owner participates in the responsible vendor program and the employee, who provided the goods or services, timely attended the training program in order to determine when identification cards are valid.

Proposed law provides that the violator shall not be held liable if the buyer intentionally misrepresented the buyer's age by presenting false identification at the time the goods or services was provided.

Proposed law provides that the violation shall be an unfair or deceptive trade practice if the employee sells or distributes the restricted item, without verifying age, for a third or subsequent time.

Proposed law provides that a violation of proposed law will be considered a violation of the Unfair Trade Practices and Consumer Protection Law which imposes a penalty of a fine of not more than \$5,000.

Effective January 1, 2010.

(Adds R.S. 51:1427)