

The Senate Committee on Agriculture and Consumer Affairs offered the following substitute to HB 697:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,
2 relating to unsolicited merchandise, so as to require solicitors to receive from consumers
3 affirmative assent to continued receipt of certain merchandise following a free trial before
4 charging; to provide for remedies; to provide for related matters; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

7 Article 3 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to
8 unsolicited merchandise, is amended by revising Code Section 10-1-50, relating to
9 regulations regarding the sending of unsolicited merchandise, as follows:
10

11 "10-1-50.

12 (a) As used in this Code section, the term 'person' shall have the meaning as provided in
13 Code Section 10-1-2.

14 (b) No person, firm, partnership, association, or corporation, or agent or employee thereof,
15 shall, in any manner or by any means, offer for sale goods, wares, or merchandise where
16 the offer includes the voluntary and unsolicited sending of such goods, wares, or
17 merchandise not actually ordered or requested by the recipient, either orally or in writing.
18 The receipt of any such goods, wares, or merchandise shall for all purposes be deemed an
19 unconditional gift to the recipient, who may use or dispose of such goods, wares, or
20 merchandise, unless such goods, wares, or merchandise were delivered to the recipient as
21 a result of a bona fide mistake, in any manner he or she sees fit without any obligation on
22 his part to the sender.

23 (c) No person shall require payment for the continued provision of any goods, wares, or
24 merchandise following the expiration of a trial period during which similar goods, wares,
25 or merchandise were provided free of charge unless the recipient of such goods, wares, or
26 merchandise provides affirmative oral, written, or electronic assent to the continued receipt

27 thereof on a paid basis. In the absence of any such assent, the receipt of any such goods,
28 wares, or merchandise following such trial period shall for all purposes be deemed an
29 unconditional gift to the recipient, who may use or dispose of such goods, wares, or
30 merchandise, unless such goods, wares, or merchandise were delivered to the recipient as
31 a result of a bona fide mistake, in any manner he or she sees fit without any obligation to
32 the sender.

33 (d) If, after any such receipt deemed to be an unconditional gift under this Code section,
34 the sender continues to send bill statements or requests for payment with respect thereto,
35 an action may be brought by the recipient to enjoin such conduct, in which action there
36 may also be awarded reasonable attorneys' fees and costs to the prevailing party. Punitive
37 damages in an amount not to exceed \$10,000.00 may also be awarded if the sender showed
38 willful misconduct, fraud, or indifference in violating the provisions of this Code section."

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SECTION 2.

40 All laws and parts of laws in conflict with this Act are repealed.