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SENATE
S.B. NO. **2389**

Introduced by Senator Maria Lourdes Nancy S. Binay

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AN ACT PROVIDING FOR AN ADDITIONAL CIRCUMSTANCE IN DETERMINING WHETHER A SALES ACT OR PRACTICE IS UNFAIR AND UNCONSCIONABLE, AMENDING FOR THE PURPOSE ARTICLE 52 OF REPUBLIC ACT NO. 7394 OTHERWISE KNOWN AS THE CONSUMER ACT OF THE PHILIPPINES


EXPLANATORY NOTE

Article XVI Section 9 of the 1987 Philippine Constitution, provides: "The State shall protect consumers from trade malpractices and from substandard or hazardous products."

Merriam-Webster defines Shortchange as: to give less than the correct amount of change to; to deprive of or give less than something due¹. Said definition clearly describes the situation of consumers who fail to obtain their exact change when buying consumer goods.

The proposed bill safeguards the consumers in such situations and takes into consideration shortchanging as an additional circumstance in determining whether there is an unfair or unconscionable sales act or practice punishable under the Republic Act No. 7394 otherwise known as the Consumer Act of the Philippines.


In view of the foregoing, the passage of this bill is earnestly recommended.


MARIA LOURDES NANCY S. BINAY
Senator

¹ Merriam-Webster Website; <http://www.merriam-webster.com/dictionary/shortchange>

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SENATE
S.B. NO. 2389

Introduced by Senator Maria Lourdes Nancy S. Binay **RECEIVED BY:** 

AN ACT PROVIDING FOR AN ADDITIONAL CIRCUMSTANCE IN DETERMINING WHETHER A SALES ACT OR PRACTICE IS UNFAIR AND UNCONSCIONABLE, AMENDING FOR THE PURPOSE ARTICLE 52 OF REPUBLIC ACT NO. 7394 OTHERWISE KNOWN AS THE CONSUMER ACT OF THE PHILIPPINES

Be in enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 SECTION 1. Article 52 of the Republic Act No. 7394 is hereby amended by inserting a
2 new paragraph () to read as follows:

3 "ART. 52. Unfair or Unconscionable Sales Act or Practice. – An unfair or
4 reasonable sales act or practice by a seller or supplier in connection with a consumer
5 transaction violates this Chapter whether it occurs before, during or after the consumer
6 transaction. An act or practice shall be deemed unfair or unconscionable whenever the
7 producer, manufacturer, distributor, supplier or seller, by taking advantage of the
8 environment or surroundings, induces the consumer or gross one-sided in favor of the
9 producer, manufacturer, distributor, supplier or seller.

10 An act or practice shall be deemed unfair or unconscionable whenever the
11 producer, manufacturer, distributor, supplier or seller, by taking advantage of the
12 consumer's physical or mental infirmity, ignorance, illiteracy, lack of time, or the general
13 conditions of the environment or surroundings, induces the consumer to enter into a sales
14 or lease transaction grossly inimical to the interests of the consumer or grossly one-sided
15 in favor of the producer, manufacturer, distributor, supplier or seller.

16
17 In determining whether an act or practice is unfair and unconscionable, the
18 following circumstances shall be considered:

- 19 a) x x x;
20 x x x;
21 d) that when the consumer transaction was entered into, the seller or supplier was
22 aware that there was no reasonable probability of payment of the obligation in
23 full by the consumer; [and]

- 1 e) that the transaction that the seller or supplier induced the consumer to enter
2 into was excessively one-sided in favor of the seller or supplier[.]; AND
3 F) THAT THE CONSUMER TRANSACTION WAS DENIED BECAUSE OF
4 AN ALLEGED SHORTAGE OF COINS OR CHANGE ON THE PART OF
5 THE SELLER, OR THAT THE CONSUMER WAS SHORTCHANGED BY
6 THE GIVING OF CANDIES OR OTHER ITEMS IN LIEU OF MONEY AS
7 CHANGE OR WHEN DUE TO LACK OF TIME, THE CONSUMER
8 ENTERS INTO THE TRANSACTION EVEN IF IT IS TANTAMOUNT IN
9 WAIVING THE CHANGE DUE.
10

11 SECTION 2. *Implementing Rules Regulations.* Within sixty (60) days from the approval
12 of this Act, the Secretary of the Department of Trade and Industry shall promulgate the necessary
13 rules and regulations to ensure the effective implementation of this Act.
14

15 SECTION 3. *Separability Clause.* If any section or provision of this Act is held
16 unconstitutional or invalid, the remaining parts or provisions not affected shall remain in full
17 force and effect.
18

19 SECTION 4. *Repealing Clause.* All laws, presidential decrees, executive orders, rules and
20 regulations or part thereof, contrary to or inconsistent with the provisions of this Act are hereby
21 repealed or modified accordingly
22

23 SECTION 5. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its
24 complete publication in the *Official Gazette* or in any newspaper of general circulation.
25

26 Approved,