

STATE OF NEW YORK

5218

2017-2018 Regular Sessions

IN ASSEMBLY

February 7, 2017

Introduced by M. of A. DINOWITZ, GOTTFRIED, ROSENTHAL, SEAWRIGHT, COOK, COLTON, ARROYO, SKOUFIS, STECK, ZEBROWSKI, PEOPLES-STOKES, HOOPER, WALTER -- Multi-Sponsored by -- M. of A. CRESPO, SIMON, TITONE -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to establishing a cap that limits the amount a consumer may be charged for leasing a modem from a cable or internet provider

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new article 28-F to read as follows:

ARTICLE 28-F

LEASING OF MODEMS FROM CABLE OR INTERNET PROVIDERS

Section 495-a. Purpose.

495-b. Definitions.

495-c. Prohibited acts.

495-d. Enforcement by the attorney general.

495-e. Civil penalty.

§ 495-a. Purpose. The purpose of this article is to limit the amount a cable or internet provider may charge consumers for the lease of a modem.

§ 495-b. Definitions. For the purposes of this article: 1. "Modem" means an electronic device that makes possible the transmission of data to or from a computer via telephone or other communication lines.

2. "Lease" means a contract or instrument conveying property to another for a specified period or for a period determinable at the will of either lessor or lessee in consideration of compensation.

3. "Internet or cable provider" means an organization that provides services for accessing, using, or participating on the internet or cable.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 § 495-c. Prohibited acts. 1. No cable or internet provider shall
2 charge any consumer an amount which is more than sixteen percent over
3 the actual cost of the modem device paid by the provider.

4 2. A cable or internet provider shall disclose in an initial billing
5 correspondence: (a) the amount the modem costs the provider, (b) how
6 many payments the consumer must make on the modem in total, and (c)
7 information regarding how or where a consumer may purchase a modem at
8 retail.

9 3. No cable or internet provider shall charge any consumer a monthly
10 fee for the lease or use of a new modem beyond twelve months after the
11 modem has been provided by such cable or internet provider. If an inter-
12 net or cable provider replaces the customer's existing modem with a new
13 modem during or after such twelve month period an additional twelve
14 month period shall commence.

15 4. No cable or internet provider shall charge an additional or monthly
16 fee for the maintenance of a provided modem.

17 § 495-d. Enforcement by attorney general. Whenever there shall be a
18 violation of this article, application may be made by the attorney
19 general in the name of the people of the state of New York to a court or
20 justice having jurisdiction by a special proceeding to issue an injunc-
21 tion, and upon notice to the defendant of not less than five days, to
22 enjoin and restrain the continuance of such violations; and if it shall
23 appear to the satisfaction of the court or justice that the defendant
24 has, in fact, violated this article, an injunction may be issued by such
25 court or justice, enjoining and restraining any further violation, with-
26 out requiring proof that any person has, in fact, been injured or
27 damaged thereby. In any such proceeding, the court may make allowances
28 to the attorney general as provided in paragraph six of subdivision (a)
29 of section eighty-three hundred three of the civil practice law and
30 rules.

31 § 495-e. Civil penalty. Whenever the court shall determine that a
32 violation of this article has occurred, the court may impose a civil
33 penalty of not more than five hundred dollars for each violation. In
34 connection with any such proposed application, the attorney general is
35 authorized to take proof and make a determination of the relevant facts
36 and to issue subpoenas in accordance with the civil practice law and
37 rules.

38 § 2. This act shall take effect immediately.