S T A T E O F N E W Y O R K

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I N A S S E M B L Y

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Introduced by M. of A. PHEFFER, CYMBROWITZ, COLTON, GABRYSZAK, SPANO, FIELDS, BING, GALEF, CASTRO, MARKEY, ROSENTHAL -- Multi-Sponsored by -- M. of A. GLICK, GOTTFRIED, LUPARDO -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to magazines and newspapers sold by subscription

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 335-a of the general business law, as added by chapter 533 of the laws of 1977, subdivision 1 as amended by chapter 534 of the laws of 1977, subdivision 2 as amended by chapter 204 of the laws of 2006, is amended to read as follows:

S 335-a. Magazines AND NEWSPAPERS sold by subscription. 1. Every publisher of a magazine OR NEWSPAPER sold by subscription shall disclose by a notice on the mailing label of each magazine OR NEWSPAPER mailed pursuant to subscription, the month and year in which the subscription expires. Such notice shall be printed or written in a clear and conspicuous form.

2. Every publisher of a magazine OR NEWSPAPER sold by subscription shall, in any direct written communication to a subscriber inviting the subscriber to renew a subscription, clearly and conspicuously

a. disclose the month and year in which the subscription expires[, which may be included on the order card or on the renewal offer]; or

b. include the month and year in which the subscription expires on the mailing label when the invitation to renew is packaged with an issue of the magazine OR NEWSPAPER, PROVIDED, HOWEVER, THAT THE LOCATION ON THE MAILING LABEL OF THE MONTH AND YEAR IN WHICH THE SUBSCRIPTION EXPIRES IS DISCLOSED IN A CLEAR AND CONSPICUOUS MANNER ON SUCH INVITATION.

THE NOTICES AND DISCLOSURES REQUIRED BY THIS SUBDIVISION SHALL BE PRINTED OR WRITTEN IN AT LEAST TWELVE POINT BOLD TYPE.

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

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3. When a subscription is renewed, the renewal period shall not commence before the expiration of any current subscription or renewals.

4. Whenever there shall be a violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has in fact, violated this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding the court may make allowances to the attorney general as provided in section eighty-three hundred three of the civil practice law and rules, and direct restitution. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS SECTION HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN ONE HUNDRED DOLLARS FOR EACH VIOLATION. EACH MAGAZINE OR NEWSPAPER PROVIDED TO A SUBSCRIBER IN VIOLATION OF THIS SECTION SHALL CONSTITUTE A SEPARATE VIOLATION. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.