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

3319

2009-2010 Regular Sessions

I N A S S E M B L Y

January 26, 2009

Introduced by M. of A. PHEFFER, SILVER, DESTITO, GUNTHER, LIFTON, MAGNARELLI, PAULIN, RAMOS, GABRYSZAK -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to the manner of the sale of airbags by motor vehicle dealers or manufacturers in certain cases

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 section 390-d to read as follows:

S 390-D. MANNER OF SALE OF AIRBAGS BY MOTOR VEHICLE DEALERS OR MANUFACTURERS IN CERTAIN CASES. 1. ANY MOTOR VEHICLE DEALER OR MANUFACTURER WHO, IN CONNECTION WITH THE SALE OR LEASE, OR THE OFFER FOR SALE OR LEASE OF A NEW MOTOR VEHICLE ONLY, OFFERS FOR SALE AND INSTALLATION AN AIRBAG MUST OFFER SUCH AIRBAG AS A STANDARD FEATURE OF THAT MODEL OF MOTOR VEHICLE OR AS AN OPTION, THE PURCHASE OF WHICH DOES NOT REQUIRE THE PURCHASE OF OTHER OPTIONS, WHETHER OR NOT SUCH AIRBAG IS ALSO OFFERED AS PART OF A PACKAGE OF OPTIONS.

2. THIS SECTION SHALL NOT APPLY TO AIRBAGS REQUIRED TO BE INSTALLED BY FEDERAL LAW.

3. A MOTOR VEHICLE DEALER SHALL NOT BE IN VIOLATION OF THIS SECTION IF THE DEALER, AFTER DUE DILIGENCE, IS UNABLE TO ACQUIRE FROM THE MANUFACTURER A VEHICLE EQUIPPED WITH AIRBAGS AS AN OPTION WITHOUT THE PURCHASE OF A PACKAGE OF OPTIONS.

4. VIOLATION OF THIS SECTION SHALL BE PUNISHABLE BY A CIVIL PENALTY OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS FOR THE FIRST OFFENSE AND NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH SUBSEQUENT OFFENSE.

5. 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 BY A SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF

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

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 PARAGRAPH SIX OF SUBDIVISION (A) OF 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 THOUSAND DOLLARS FOR SUCH VIOLATION. IN CONNECTION WITH ANY SUCH 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 and shall apply only to new motor vehicles manufactured and sold on and after such date.