

4158

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 30, 2009

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Introduced by M. of A. CYMBROWITZ, CAHILL, MILLMAN, FIELDS, GREENE, SCARBOROUGH, JAFFEE -- Multi-Sponsored by -- M. of A. DENDEKKER, MARKEY, McENENY, PHEFFER, RUSSELL, SWEENEY, TOWNS, WEISENBERG -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the general business law and the agriculture and markets law, in relation to requiring gasoline stations to provide free air pumps and water for use in servicing motor vehicles

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

1     Section 1. Section 396-x of the general business law, as added by  
2 chapter 616 of the laws of 1984, is amended to read as follows:  
3     S 396-x. Gasoline stations; air pumps required. 1. Definition. As used  
4 in this section: "dealer" shall mean any person owning or operating a  
5 premise or facility with four or more gas dispensing nozzles for the  
6 retail sale of motor fuels for use in motor vehicles.  
7     2. Any dealer must provide on the premises where motor fuel is sold at  
8 retail for use in motor vehicles AND MAKE AVAILABLE AT NO COST TO  
9 CUSTOMERS, a functioning motor driven air compressor capable of inflat-  
10 ing automobile tires [for use by customers], A GAUGE FOR MEASURING AIR  
11 PRESSURE, AND WATER, FOR USE IN SERVICING ANY MOTOR VEHICLE, during  
12 hours in which such station is open for business.  
13     3. (A) Wilful failure to comply with the provisions of this section  
14 shall subject a dealer to a civil penalty of up to [twenty-five] FIFTY  
15 dollars for each day such failure occurs. If the failure to comply  
16 results from the breakdown of the air compressor, the failure to repair  
17 within a reasonable time shall constitute wilful conduct.  
18     (B) THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION MAY BE ENFORCED  
19 CONCURRENTLY BY THE DIRECTOR OF A MUNICIPAL CONSUMER AFFAIRS OFFICE, OR  
20 BY THE TOWN ATTORNEY, CITY CORPORATION COUNSEL, OR OTHER LAWFUL DESIGNEE

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

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1 OF A MUNICIPALITY OR LOCAL GOVERNMENT, AND ALL MONEYS COLLECTED UNDER  
2 THIS SECTION SHALL BE RETAINED BY SUCH MUNICIPALITY OR LOCAL GOVERNMENT.

3 (C) NO DEALER SHALL BE GUILTY OF THE INFRACTION SPECIFIED IN PARAGRAPH  
4 (A) OF THIS SUBDIVISION IF THAT PERSON, WITHIN SEVEN DAYS AFTER RECEIV-  
5 ING NOTIFICATION FROM THE DIRECTOR OF A MUNICIPAL CONSUMER AFFAIRS  
6 OFFICE, OR THE TOWN ATTORNEY, CITY CORPORATION COUNSEL, OTHER LAWFUL  
7 DESIGNEE OF A MUNICIPALITY OR LOCAL GOVERNMENT, OR ATTORNEY GENERAL OF  
8 ANY VIOLATION OF THIS SECTION, MAKES WHATEVER CHANGES ARE NECESSARY TO  
9 COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

10 4. EVERY DEALER IN THIS STATE SHALL DISPLAY, AT A CONSPICUOUS PLACE  
11 ON, AT, OR NEAR THE DISPENSING APPARATUS, AT LEAST ONE CLEARLY VISIBLE  
12 SIGN WHICH SHALL READ AS FOLLOWS: "NEW YORK LAW REQUIRES THIS STATION TO  
13 PROVIDE FREE AIR AND WATER FOR AUTOMOTIVE PURPOSES TO ITS CUSTOMERS.

14 IF YOU HAVE A COMPLAINT NOTIFY THE STATION ATTENDANT AND/OR CALL THIS  
15 TOLL-FREE TELEPHONE NUMBER: 1(800)\_\_\_\_\_. " ALL LETTERS, FIGURES,  
16 OR NUMERALS ON SUCH SIGN, HOWEVER AFFIXED, MARKED, IMPRINTED, PLACED, OR  
17 EMBOSSED, SHALL BE AT LEAST THREE-FOURTHS OF AN INCH IN HEIGHT AND ALL  
18 LINES OR MARKS USED IN THE MAKING OR FORMING OF ALL THE LETTERS,  
19 FIGURES, OR NUMERALS WHICH ARE A PART OF THE SIGN SHALL BE AT LEAST  
20 ONE-EIGHTH OF AN INCH IN WIDTH. AS USED IN THIS SUBDIVISION, "AUTOMOTIVE  
21 PURPOSES" DOES NOT INCLUDE THE WASHING OF VEHICLES.

22 S 2. Section 16 of the agriculture and markets law is amended by  
23 adding a new subdivision 44 to read as follows:

24 44. (A) THE DEPARTMENT SHALL, NO LATER THAN JANUARY FIRST, TWO THOU-  
25 SAND TEN, ESTABLISH A TOLL-FREE TELEPHONE NUMBER FOR RECEIVING  
26 COMPLAINTS RELATED TO THE PROVISION OF FREE AIR AND WATER TO CUSTOMERS  
27 OF GASOLINE STATIONS PURSUANT TO SECTION THREE HUNDRED NINETY-SIX-X OF  
28 THE GENERAL BUSINESS LAW, AS ADDED BY CHAPTER SIX HUNDRED SIXTEEN OF THE  
29 LAWS OF NINETEEN HUNDRED EIGHTY-FOUR, AND SUBDIVISION SIX OF SECTION ONE  
30 HUNDRED NINETY-TWO OF THIS CHAPTER. THE TOLL-FREE TELEPHONE NUMBER  
31 THEREBY ESTABLISHED SHALL BE PRINTED ON THE SIGN REQUIRED PURSUANT TO  
32 SUCH SECTION. THE TOLL-FREE NUMBER MAY BE AN EXISTING NUMBER ESTABLISHED  
33 BY THE DEPARTMENT FOR RECEIVING INQUIRIES FROM CONSUMERS.

34 (B) EMPLOYEES OF THE DEPARTMENT, UPON NOTICE OF A COMPLAINT FORWARDED  
35 PURSUANT TO THIS SECTION, OR BY ANY OTHER MEANS, SHALL FORWARD THE  
36 CONTENTS OF SUCH COMPLAINT TO THE APPROPRIATE MUNICIPALITY OR LOCAL  
37 GOVERNMENT FOR THE PURPOSES OF ADDRESSING SUCH COMPLAINT.

38 S 3. Subdivision 6 of section 192 of the agriculture and markets law,  
39 as added by chapter 126 of the laws of 1985, is amended to read as  
40 follows:

41 6. Gasoline stations; air pumps required. a. Definition. As used in  
42 this subdivision: "dealer" shall mean any person owning or operating a  
43 premise or facility with four or more gas dispensing nozzles for the  
44 retail sale of motor fuels for use in motor vehicles.

45 b. Any dealer must provide on the premises where motor fuel is sold at  
46 retail for use in motor vehicles AND MAKE AVAILABLE AT NO COST a func-  
47 tioning motor driven air compressor capable of inflating automobile  
48 tires [for use by customers], A GAUGE FOR MEASURING AIR PRESSURE, AND  
49 WATER, FOR USE IN SERVICING ANY MOTOR VEHICLE, during hours in which  
50 such station is open for business.

51 c. (I) Wilful failure to comply with the provisions of this subdivi-  
52 sion shall subject a dealer to a civil penalty of up to [twenty-five]  
53 FIFTY dollars for each day such failure occurs. If the failure to comply  
54 results from the breakdown of the air compressor, the failure to repair  
55 within a reasonable time shall constitute wilful conduct.

(II) THE PROVISIONS OF PARAGRAPH B OF THIS SUBDIVISION MAY BE ENFORCED CONCURRENTLY BY THE DIRECTOR OF A MUNICIPAL CONSUMER AFFAIRS OFFICE, OR BY THE TOWN ATTORNEY, CITY CORPORATION COUNSEL, OR OTHER LAWFUL DESIGNEE OF A MUNICIPALITY OR LOCAL GOVERNMENT, AND ALL MONEYS COLLECTED THEREUNDER SHALL BE RETAINED BY SUCH MUNICIPALITY OR LOCAL GOVERNMENT.

(III) NO DEALER SHALL BE GUILTY OF THE INFRACTION SPECIFIED IN THIS SUBDIVISION IF THAT PERSON, WITHIN SEVEN DAYS AFTER RECEIVING NOTIFICATION FROM THE DIRECTOR OF A MUNICIPAL CONSUMER AFFAIRS OFFICE, OR THE TOWN ATTORNEY, CITY CORPORATION COUNSEL, OTHER LAWFUL DESIGNEE OF A MUNICIPALITY OR LOCAL GOVERNMENT, OR ATTORNEY GENERAL OF ANY VIOLATION OF THIS SUBDIVISION, MAKES WHATEVER CHANGED ARE NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THIS SUBDIVISION.

D. EVERY DEALER IN THIS STATE SHALL DISPLAY, AT A CONSPICUOUS PLACE ON, AT, OR NEAR THE DISPENSING APPARATUS, AT LEAST ONE CLEARLY VISIBLE SIGN WHICH SHALL READ AS FOLLOWS: "NEW YORK LAW REQUIRES THIS STATION TO PROVIDE FREE AIR AND WATER FOR AUTOMOTIVE PURPOSES TO ITS CUSTOMERS.

IF YOU HAVE A COMPLAINT NOTIFY THE STATION ATTENDANT AND/OR CALL THIS TOLL FREE TELEPHONE NUMBER: 1 (800) \_\_\_\_\_. " ALL LETTERS, FIGURES, OR NUMERALS ON SUCH SIGN, HOWEVER AFFIXED, MARKED, IMPRINTED, PLACED, OR EMBOSSSED, SHALL BE AT LEAST THREE-FOURTHS OF AN INCH IN HEIGHT AND ALL LINES OR MARKS USED IN THE MAKING OR FORMING OF ALL THE LETTERS, FIGURES, OR NUMERALS WHICH ARE A PART OF THE SIGN SHALL BE AT LEAST ONE-EIGHTH OF AN INCH IN WIDTH. AS USED IN THIS SUBDIVISION, AUTOMOTIVE PURPOSES DOES NOT INCLUDE THE WASHING OF VEHICLES.

S 4. This act shall take effect April 1, 2010; provided that the department of agriculture and markets shall establish the toll-free telephone number as required by section two of this act on or before January 1, 2010.