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

4604

2009-2010 Regular Sessions

I N A S S E M B L Y

February 5, 2009

Introduced by M. of A. JAFFEE, WALKER, HOYT, RAIA -- Multi-Sponsored by -- M. of A. BRENNAN, GOTTFRIED, McKEVITT -- 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 administrative code of the city of New York, in relation to requiring certain retailers to implement security measures when offering "doorbuster type sales"

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. DOORBUSTER TYPE SALES; SECURITY MEASURES. 1. THE PROVISIONS OF THIS SECTION SHALL APPLY TO ANY CORPORATION, ASSOCIATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, OR OTHER LEGAL ENTITY WHICH OPERATES A RETAIL PREMISES OF OVER NINETY THOUSAND SQUARE FEET OF RETAIL SPACE OR ANY OF THE ABOVE WHICH OPERATES A CHAIN OF RETAIL PREMISES OF SIX OR MORE.

2. FOR THE PURPOSES OF THIS SECTION, THE TERM "DOORBUSTER TYPE SALE" SHALL MEAN AND INCLUDE THE ADVERTISED SALE OF ITEMS OR HIGH DEMAND ITEMS FOR A SPECIFIC DEFINED PERIOD OF TIME WHICH SHALL BE LESS THAN SEVENTY-TWO HOURS WHERE SUCH ITEM OR ITEMS ARE OFFERED IN A LIMITED QUANTITY INTENDED TO ATTRACT HIGHER THAN AVERAGE CUSTOMER TRAFFIC.

3. ANY RETAILER WHICH CONDUCTS A DOORBUSTER TYPE SALE SHALL INSTITUTE AND PROVIDE THE SECURITY PRECAUTIONS AND PROCEDURES WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING:

A. EMPLOY AN ADEQUATE NUMBER OF STAFF TO MONITOR, ASSIST AND CONTROL A REASONABLY ESTIMATED NUMBER OF CUSTOMERS;

B. HAVE STAFF WORKING OUTSIDE ON THE LINE BEFORE THE DOORS OPEN TO KEEP AN EYE ON POTENTIALLY DISRUPTIVE CUSTOMERS;

C. PROVIDE ALL STAFF WITH ADEQUATE TRAINING, SPECIFICALLY RELATING TO CROWD CONTROL AND STORE SAFETY AND SALES PROCEDURES;

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

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D. DEVELOP AND INSTITUTE STORE POLICIES AND PROCEDURES WHICH ARE DESIGNED TO PROMOTE THE FAIR AND ORDERLY SALES OF PRODUCTS WHICH ARE BEING OFFERED AT A REDUCED SALE PRICE INCLUDING, BUT NOT LIMITED TO SECURED, MARKED WAITING AREAS OUTSIDE THE RETAIL PREMISES, A FIRST COME-FIRST SERVED OR LOTTERY NUMBER ISSUE SYSTEM FOR GOODS WHICH ARE LIMITED IN QUANTITY; PLACEMENT OF CERTAIN LIMITED QUANTITY ITEMS IN RESTRICTED AREAS WHICH ARE SECURED BY STAFF AND/OR OTHER SECURITY MEASURES SO AS TO ALLOW FOR THE ORDERLY DISTRIBUTION OF SUCH ITEMS BY SALES ASSOCIATES ACCORDING TO SET POLICIES AND PROCEDURES;

E. PUBLISH AND POST NOTICE OF STORE POLICIES REGARDING ANY SYSTEM USED TO DETERMINE CUSTOMER PREFERENCE FOR LIMITED QUANTITY ITEMS; AND

F. COORDINATE WITH ANY LOCAL AUTHORITIES OR AGENCIES WHEN IT CAN BE REASONABLY ANTICIPATED THAT ANY SUCH SALE MAY POSE A RISK TO PUBLIC HEALTH, SAFETY OR ORDER.

4. ANY VIOLATION OF ANY PROVISION OF THIS SECTION SHALL BE SUBJECT TO A FINE OF ONE THOUSAND DOLLARS PER DAY OF NON-AVAILABILITY OF DOORBUSTER PROCEDURES FOR LACK OF A DEMONSTRABLE PLAN FOR A FIRST VIOLATION, AND ONE HUNDRED THOUSAND DOLLARS FOR ANY SUBSEQUENT VIOLATION.

5. THE ATTORNEY GENERAL OF THE STATE OF NEW YORK SHALL HAVE THE AUTHORITY TO ENFORCE THE PROVISIONS OF THIS SECTION.

S 2. Section 581 of the general business law is amended by adding a new subdivision (h) to read as follows:

(H) THE TERM "DOORBUSTER TYPE SALE" SHALL MEAN AND INCLUDE THE ADVERTISED SALE OF ITEMS OR HIGH DEMAND ITEMS FOR A SPECIFIC DEFINED PERIOD OF TIME WHICH SHALL BE LESS THAN SEVENTY-TWO HOURS WHERE SUCH ITEM OR ITEMS ARE OFFERED IN A LIMITED QUANTITY INTENDED TO ATTRACT HIGHER THAN AVERAGE CUSTOMER TRAFFIC.

S 3. Subdivision (b) of section 583 of the general business law, as added by chapter 435 of the laws of 1968, is amended to read as follows:

(b) If the application is for a "closing out sale", "DOORBUSTER TYPE SALE" or a "defunct business sale," it shall be filed at least fifteen days prior to the date on which such sale is to commence.

S 4. Subdivision (d) of section 583 of the general business law is amended by adding a new paragraph 11-a to read as follows:

(11-A) IF THE APPLICATION IS FOR A "DOORBUSTER TYPE SALE", THE APPLICANT SHALL PROVE IT HAS TAKEN THE NECESSARY SECURITY PRECAUTIONS BEFORE BEING GRANTED A LICENSE TO HOLD A SALE.

S 5. Section 20-308 of the administrative code of the city of New York is amended by adding a new subdivision 3 to read as follows:

3. "DOORBUSTER TYPE SALE". THE ADVERTISED SALE OF ITEMS OR HIGH DEMAND ITEMS FOR A SPECIFIC DEFINED PERIOD OF TIME WHICH SHALL BE LESS THAN SEVENTY-TWO HOURS WHERE SUCH ITEM OR ITEMS ARE OFFERED IN A LIMITED QUANTITY INTENDED TO ATTRACT HIGHER THAN AVERAGE CUSTOMER TRAFFIC.

S 6. Section 20-309 of the administrative code of the city of New York is amended to read as follows:

S 20-309 License required. 1. It shall be unlawful for any person to publish or conduct any sale of the type herein defined without a license therefor and a license issued pursuant to this subchapter for a sale advertised as a "branch store discontinuance sale" shall apply only to, and the sale shall be conducted only at, the premises of the branch which is being discontinued.

2. THE PROVISIONS OF THIS SECTION SHALL APPLY TO ANY CORPORATION, ASSOCIATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, OR OTHER LEGAL ENTITY WHICH OPERATES A RETAIL PREMISES OF OVER NINETY THOUSAND SQUARE FEET OF RETAIL SPACE OR ANY OF THE ABOVE WHICH OPERATES A CHAIN OF RETAIL PREMISES OF SIX OR MORE.

3. FOR THE PURPOSES OF THIS SECTION, THE TERM "DOORBUSTER TYPE SALE" SHALL MEAN AND INCLUDE THE ADVERTISED SALE OF ITEMS OR HIGH DEMAND ITEMS FOR A SPECIFIC DEFINED PERIOD OF TIME WHICH SHALL BE LESS THAN SEVENTY-TWO HOURS WHERE SUCH ITEM OR ITEMS ARE OFFERED IN A LIMITED QUANTITY INTENDED TO ATTRACT HIGHER THAN AVERAGE CUSTOMER TRAFFIC.

4. ANY RETAILER WHICH CONDUCTS A DOORBUSTER TYPE SALE SHALL INSTITUTE AND PROVIDE THE SECURITY PRECAUTIONS AND PROCEDURES WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING:

A. EMPLOY AN ADEQUATE NUMBER OF STAFF TO MONITOR, ASSIST AND CONTROL A REASONABLY ESTIMATED NUMBER OF CUSTOMERS;

B. HAVE STAFF WORKING OUTSIDE ON THE LINE BEFORE THE DOORS OPEN TO KEEP AN EYE ON POTENTIALLY DISRUPTIVE CUSTOMERS;

C. PROVIDE ALL STAFF WITH ADEQUATE TRAINING, SPECIFICALLY RELATING TO CROWD CONTROL AND STORE SAFETY AND SALES PROCEDURES;

D. DEVELOP AND INSTITUTE STORE POLICIES AND PROCEDURES WHICH ARE DESIGNED TO PROMOTE THE FAIR AND ORDERLY SALES OF PRODUCTS WHICH ARE BEING OFFERED AT A REDUCED SALE PRICE INCLUDING, BUT NOT LIMITED TO SECURED, MARKED WAITING AREAS OUTSIDE THE RETAIL PREMISES, A FIRST COME-FIRST SERVED OR LOTTERY NUMBER ISSUE SYSTEM FOR GOODS WHICH ARE LIMITED IN QUANTITY; PLACEMENT OF CERTAIN LIMITED QUANTITY ITEMS IN RESTRICTED AREAS WHICH ARE SECURED BY STAFF AND/OR OTHER SECURITY MEASURES SO AS TO ALLOW FOR THE ORDERLY DISTRIBUTION OF SUCH ITEMS BY SALES ASSOCIATES ACCORDING TO SET POLICIES AND PROCEDURES;

E. PUBLISH AND POST NOTICE OF STORE POLICIES REGARDING ANY SYSTEM USED TO DETERMINE CUSTOMER PREFERENCE FOR LIMITED QUANTITY ITEMS; AND

F. COORDINATE WITH ANY LOCAL AUTHORITIES OR AGENCIES WHEN IT CAN BE REASONABLY ANTICIPATED THAT ANY SUCH SALE MAY POSE A RISK TO PUBLIC HEALTH, SAFETY OR ORDER.

5. ANY VIOLATION OF ANY PROVISION OF THIS SECTION SHALL BE SUBJECT TO A FINE OF ONE THOUSAND DOLLARS PER DAY OF NON-AVAILABILITY OF DOORBUSTER PROCEDURES FOR LACK OF A DEMONSTRABLE PLAN FOR A FIRST VIOLATION, AND ONE HUNDRED THOUSAND DOLLARS FOR ANY SUBSEQUENT VIOLATION.

6. THE ATTORNEY GENERAL OF THE STATE OF NEW YORK SHALL HAVE THE AUTHORITY TO ENFORCE THE PROVISIONS OF THIS SECTION.

S 6. Paragraph 6 of subdivision b of section 20-310 of the administrative code of the city of New York is amended and a new paragraph 6-a is added to read as follows:

6. Where and from whom such stock was purchased or acquired; and, if not purchased, the manner of such acquisition[.];

6-A. IF THE APPLICATION IS FOR A "DOORBUSTER TYPE SALE", THE APPLICANT SHALL PROVE IT HAS TAKEN THE NECESSARY SECURITY PRECAUTIONS BEFORE BEING GRANTED A LICENSE TO HOLD A SALE; AND

S 7. This act shall take effect on the ninetieth day after it shall have become a law.