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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. KAVANAGH, FARRELL, MILLMAN, CLARK, DINOWITZ, CYMBROWITZ, GIANARIS, POWELL, WEINSTEIN, JAFFEE -- Multi-Sponsored by -- M. of A. BENJAMIN, BRADLEY, BRENNAN, COLTON, COOK, DIAZ, GALEF, GLICK, GOTTFRIED, GREENE, HIKIND, JACOBS, MCENENY, O'DONNELL, ORTIZ, PEOPLES, PERALTA, PHEFFER, J. RIVERA, N. RIVERA, P. RIVERA, ROBINSON, TOWNS, WEISENBERG -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to discrimination in the rental of motor vehicles on the basis of geographic location

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

1 Section 1. The general business law is amended by adding a new section
2 391-q to read as follows:
3 S 391-Q. RENTAL OF MOTOR VEHICLES; DISCRIMINATION ON THE BASIS OF
4 GEOGRAPHICAL LOCATION. 1. IT SHALL BE UNLAWFUL FOR ANY MOTOR VEHICLE
5 RENTAL AGENCY TO ENGAGE IN ANY OF THE FOLLOWING PRACTICES ON THE BASIS
6 OF THE GEOGRAPHICAL LOCATION OF THE RESIDENCE OF THE PERSON ATTEMPTING
7 TO ENTER INTO SUCH RENTAL AGREEMENT:
8 A. REFUSE TO RENT SUCH VEHICLE;
9 B. IMPOSE ANY ADDITIONAL CHARGE FOR THE RENTAL OF SUCH MOTOR VEHICLE;
10 OR
11 C. IMPOSE ANY ADDITIONAL TERMS, CONDITIONS OR PRIVILEGES UPON THE
12 RENTAL OF SUCH VEHICLE.
13 2. UPON ANY VIOLATION OF THIS SECTION, AN APPLICATION MAY BE MADE BY
14 THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE TO A COURT
15 OR JUSTICE HAVING JURISDICTION TO ISSUE AN INJUNCTION, AND UPON NOTICE
16 TO THE RESPONDENT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE
17 CONTINUANCE OF THE VIOLATION. IF IT SHALL APPEAR TO THE SATISFACTION OF
18 THE COURT OR JUSTICE THAT THE RESPONDENT HAS VIOLATED ANY PROVISION OF
19 THIS SECTION, AN INJUNCTION MAY BE ISSUED BY THE COURT OR JUSTICE,

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

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1 ENJOINING AND RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF
2 THAT ANY PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY
3 SUCH PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL
4 AS PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE
5 HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITU-
6 TION. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS
7 SECTION HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE
8 THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION.

9 3. IN ADDITION TO ANY RIGHT OF ACTION GRANTED TO THE ATTORNEY GENERAL
10 PURSUANT TO THIS SECTION, ANY PERSON WHO HAS BEEN INJURED BY REASON OF
11 ANY VIOLATION OF THIS SECTION MAY BRING AN ACTION IN HIS OR HER OWN NAME
12 TO ENJOIN SUCH UNLAWFUL ACT OR PRACTICE, AN ACTION TO RECOVER HIS OR HER
13 ACTUAL DAMAGES OR TWO HUNDRED FIFTY DOLLARS, WHICHEVER IS GREATER, OR
14 BOTH SUCH ACTIONS. THE COURT MAY, IN ITS DISCRETION, AWARD THE PREVAIL-
15 ING PLAINTIFF IN SUCH ACTION A PENALTY UP TO ONE THOUSAND DOLLARS, IF
16 THE COURT FINDS THE DEFENDANT WILLFULLY OR KNOWINGLY VIOLATED THE
17 PROVISIONS OF THIS SECTION. THE COURT MAY AWARD REASONABLE ATTORNEYS'
18 FEES TO A PREVAILING PLAINTIFF.

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