

4619

2009-2010 Regular Sessions

I N S E N A T E

April 24, 2009

Introduced by Sens. ONORATO, HASSELL-THOMPSON, C. JOHNSON, KLEIN, PARK-
ER, SAMPSON -- read twice and ordered printed, and when printed to be
committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to prohibiting the
transmission of unsolicited checks, drafts, or negotiable instruments
to credit card or debit card holders without their consent

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

1 Section 1. The general business law is amended by adding a new section
2 520-d to read as follows:
3 S 520-D. TRANSMISSION OF UNSOLICITED CHECKS, DRAFTS, OR NEGOTIABLE
4 INSTRUMENTS PROHIBITED. 1. NO ISSUER SHALL TRANSMIT ANY UNSOLICITED
5 CHECK, DRAFT, OR NEGOTIABLE INSTRUMENT TO ANY HOLDER. A CHECK, DRAFT, OR
6 NEGOTIABLE INSTRUMENT MAY BE TRANSMITTED TO A HOLDER ONLY IF THE HOLDER
7 HAS AFFIRMATIVELY, IN A CLEAR AND CONSPICUOUS, WRITTEN FORM, CONSENTED
8 TO THE TRANSMISSION OF A CHECK, DRAFT, OR NEGOTIABLE INSTRUMENT IN A
9 PARTICULAR INSTANCE OR HAS AFFIRMATIVELY, IN A CLEAR AND CONSPICUOUS,
10 WRITTEN FORM, CONSENTED TO THE TRANSMISSION OF CHECKS, DRAFTS, OR NEGO-
11 TIABLE INSTRUMENTS ON AN ONGOING BASIS, WITHOUT NEED OF AFFIRMATIVE
12 CONSENT FOR EACH INSTANCE. ANY CONSENT GIVEN MAY BE WITHDRAWN AT ANY
13 TIME BY THE HOLDER BY GIVING WRITTEN NOTICE THEREOF TO THE ISSUER.
14 2. A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL BE PUNISHABLE
15 BY A CIVIL FINE NOT TO EXCEED ONE THOUSAND DOLLARS FOR A FIRST VIOLATION
16 AND NOT TO EXCEED FIVE THOUSAND DOLLARS FOR SUBSEQUENT VIOLATIONS. ANY
17 SUCH VIOLATION MAY BE ENFORCED BY THE ATTORNEY GENERAL, A MUNICIPAL
18 DIRECTOR OF CONSUMER AFFAIRS, OR THE CORPORATION COUNSEL OR ATTORNEY FOR
19 ANY CITY, TOWN, OR VILLAGE.
20 S 2. This act shall take effect on the ninetieth day after it shall
21 have become a law.

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

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