

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GREENE, GLICK, GOTTFRIED -- Multi-Sponsored by --
M. of A. DINOWITZ, JACOBS, LUPARDO, MILLMAN -- read once and referred
to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to the disclosure
of social security numbers

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
2 394-f to read as follows:
3 S 394-F. DISCLOSURE OF SOCIAL SECURITY NUMBER. 1. EVERY PERSON, FIRM,
4 PARTNERSHIP, ASSOCIATION OR CORPORATION WHICH REQUESTS AN INDIVIDUAL TO
5 RELEASE, DISCLOSE OR FURNISH HIS OR HER SOCIAL SECURITY NUMBER SHALL
6 INFORM SUCH INDIVIDUAL, IN WRITING, OR ORALLY WHERE THE REQUEST IS MADE
7 ORALLY, WHETHER FEDERAL OR STATE LAW OR REGULATION AUTHORIZES THE SOLIC-
8 ITATION OF THE SOCIAL SECURITY NUMBER, WHETHER DISCLOSURE OF SUCH NUMBER
9 IS MANDATORY OR VOLUNTARY AND THE PRINCIPAL PURPOSE OR PURPOSES FOR
10 WHICH SUCH INFORMATION IS INTENDED TO BE USED.
11 2. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION SHALL
12 REQUIRE AN INDIVIDUAL TO DISCLOSE OR FURNISH HIS OR HER SOCIAL SECURITY
13 NUMBER, FOR ANY PURPOSE IN CONNECTION WITH ANY ACTIVITY, OR TO REFUSE
14 ANY SERVICE, PRIVILEGE OR RIGHT TO AN INDIVIDUAL WHOLLY OR PARTLY
15 BECAUSE SUCH INDIVIDUAL REFUSES TO DISCLOSE OR FURNISH SUCH NUMBER,
16 UNLESS THE DISCLOSURE OR FURNISHING OF SUCH NUMBER IS REQUIRED PURSUANT
17 TO FEDERAL OR STATE LAW OR REGULATION.
18 3. WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, APPLICATION
19 MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE
20 STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL
21 PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF
22 NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH
23 VIOLATION; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR

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

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1 JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS SECTION, AN
2 INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND
3 RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY
4 PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH
5 PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS
6 PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE
7 HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITU-
8 TION. IN CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY
9 GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE
10 RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRAC-
11 TICE LAW AND RULES. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION
12 OF SUBDIVISION ONE OF THIS SECTION HAS OCCURRED, THE COURT SHALL IMPOSE
13 A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS. THE SECOND
14 OFFENSE AND ANY OFFENSE COMMITTED THEREAFTER SHALL BE PUNISHABLE BY A
15 CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS. WHENEVER THE COURT
16 SHALL DETERMINE THAT A VIOLATION OF SUBDIVISION TWO OF THIS SECTION HAS
17 OCCURRED, THE COURT SHALL IMPOSE A CIVIL PENALTY OF NOT MORE THAN ONE
18 THOUSAND DOLLARS.

19 4. ANY PERSON WHO HAS BEEN INJURED BY REASON OF ANY VIOLATION OF THIS
20 SECTION MAY BRING AN ACTION IN HIS OR HER OWN NAME TO ENJOIN SUCH UNLAW-
21 FUL ACT OR PRACTICE, AN ACTION TO RECOVER HIS OR HER ACTUAL DAMAGES OR
22 FIFTY DOLLARS, WHICHEVER IS GREATER, OR BOTH SUCH ACTIONS. THE COURT
23 MAY, IN ITS DISCRETION, INCREASE THE AWARD OF DAMAGES TO AN AMOUNT NOT
24 TO EXCEED THREE TIMES THE ACTUAL DAMAGES UP TO ONE THOUSAND DOLLARS, IF
25 THE COURT FINDS THE DEFENDANT WILLFULLY OR KNOWINGLY VIOLATED THIS
26 SECTION. THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES TO A PREVAILING
27 PLAINTIFF.

28 5. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION SHALL BE
29 DEEMED TO HAVE VIOLATED THE PROVISIONS OF THIS SECTION IF SUCH PERSON,
30 FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION SHOWS, BY A PREPONDERANCE
31 OF THE EVIDENCE, THAT THE VIOLATION WAS NOT INTENTIONAL AND RESULTED
32 FROM A BONA FIDE ERROR MADE NOTWITHSTANDING THE MAINTENANCE OF PROCE-
33 DURES REASONABLY ADOPTED TO AVOID SUCH ERROR.

34 S 2. This act shall take effect on the one hundred twentieth day after
35 it shall have become a law.