

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

9407--A

I N A S S E M B L Y

(PREFILED)

January 6, 2010

Introduced by M. of A. HEVESI, HOYT, BENEDETTO, JAFFEE, M. MILLER, CYMBROWITZ, CASTRO, TITONE, ESPAILLAT, BOYLAND -- Multi-Sponsored by -- M. of A. CUSICK, GLICK, MARKEY, MAYERSOHN, ROBINSON, SKARTADOS, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Consumer Affairs and Protection -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to requiring the state consumer protection board to establish a bicycle theft prevention website and to amend the general business law, in relation to the bicycle theft prevention registration notification

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

1 Section 1. Subdivision 3 of section 553 of the executive law is
2 amended by adding a new paragraph 1 to read as follows:
3 L. ESTABLISH A BICYCLE THEFT PREVENTION WEBSITE THAT INCLUDES, BUT IS
4 NOT LIMITED TO, PROPER METHODS FOR PARKING AND LOCKING BICYCLES, THE
5 BENEFITS OF BICYCLE REGISTRATION, AND THE PROPER PROCEDURE FOR REPORTING
6 BICYCLE THEFT. SUCH WEBSITE OR WEBPAGE SHALL ALSO:
7 (1) INCLUDE AN INTERACTIVE FEATURE THAT ALLOWS CONSUMERS TO DETERMINE
8 IF A MUNICIPALITY LOCATED IN THIS STATE HAS ESTABLISHED A BICYCLE REGIS-
9 TRATION PROGRAM; AND
10 (2) REFERENCE THE AVAILABILITY OF BICYCLE REGISTRATION PROGRAMS ADMIN-
11 ISTERED BY MUNICIPALITIES AND OTHER APPROPRIATE ENTITIES.
12 S 2. The general business law is amended by adding a new section 391-
13 cc to read as follows:
14 S 391-CC. BICYCLE THEFT PREVENTION REGISTRATION NOTIFICATION. 1. A.
15 NO PERSON, FIRM, ASSOCIATION OR CORPORATION ENGAGED IN THE BUSINESS OF
16 SELLING BICYCLES SHALL SELL ANY BICYCLE UNLESS SUCH PERSON, FIRM, ASSO-
17 CIATION OR CORPORATION PROVIDES THE FOLLOWING NOTICE TO CONSUMERS:
18 "REGISTER YOUR BICYCLE. FOR MORE INFORMATION ABOUT THE BENEFITS OF BICY-
19 CLE REGISTRATION AND BICYCLE REGISTRIES AVAILABLE TO YOU, CONTACT THE
20 NEW YORK STATE CONSUMER PROTECTION BOARD AT (INSERT THE CURRENT TELE-

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

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1 PHONE NUMBER ESTABLISHED BY THE STATE CONSUMER PROTECTION BOARD FOR
2 RECEIVING INQUIRIES FROM CONSUMERS) OR (INSERT THE ADDRESS OF THE
3 WEBSITE CREATED PURSUANT TO PARAGRAPH 1 OF SUBDIVISION THREE OF SECTION
4 553 OF THE EXECUTIVE LAW)"

5 B. SUCH NOTICE SHALL BE GIVEN BY PROMINENTLY POSTING A SIGN WHERE
6 BICYCLES ARE DISPLAYED AND/OR SOLD OR WHERE BICYCLES ARE OFFERED FOR
7 SALE THROUGH A PRINTED BICYCLE DISPLAY OR BICYCLE CATALOGUE AVAILABLE TO
8 CUSTOMERS IN RETAIL STORES. SUCH SIGN SHALL BE NO LESS THAN NINE INCHES
9 BY FOURTEEN INCHES USING LETTERS NO LESS THAN ONE-HALF INCH IN HEIGHT.
10 ANY PERSON, FIRM, ASSOCIATION OR CORPORATION ENGAGED IN THE BUSINESS OF
11 SELLING BICYCLES, MAY, IN LIEU OF POSTING A SIGN, MAKE AVAILABLE TO
12 CONSUMERS A WRITTEN NOTICE DISPLAYED IN A PROMINENT LOCATION WHERE BICY-
13 CLES ARE DISPLAYED AND/OR SOLD OR WHERE BICYCLES ARE OFFERED FOR SALE
14 THROUGH A PRINTED BICYCLE DISPLAY OR BICYCLE CATALOGUE AVAILABLE TO
15 CUSTOMERS IN RETAIL STORES. SUCH NOTICE SHALL BE NO LESS THAN FIVE
16 INCHES BY EIGHT INCHES USING LETTERS NO SMALLER THAN FOURTEEN POINT
17 TYPE.

18 2. ANY PERSON, FIRM, ASSOCIATION OR CORPORATION WHO OR WHICH VIOLATES
19 THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL, FOR A FIRST
20 SUCH VIOLATION, IN LIEU OF A PENALTY, BE ISSUED A WRITTEN WARNING. SUCH
21 PERSON, FIRM, ASSOCIATION OR CORPORATION SHALL, HOWEVER, FOR A SECOND
22 VIOLATION, BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED
23 DOLLARS FOR EACH SUCH VIOLATION.

24 3. A. UPON ANY VIOLATION OF THE PROVISIONS OF SUBDIVISION ONE OF THIS
25 SECTION, AN APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME
26 OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING
27 JURISDICTION TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF
28 NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF THE
29 VIOLATION. IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR
30 JUSTICE THAT THE DEFENDANT HAS VIOLATED SUBDIVISION ONE OF THIS SECTION,
31 AN INJUNCTION MAY BE ISSUED BY THE COURT OR JUSTICE, ENJOINING AND
32 RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY
33 PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH
34 PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS
35 PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHT THOUSAND
36 THREE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT
37 RESTITUTION.

38 B. IN CONNECTION WITH AN APPLICATION MADE UNDER PARAGRAPH A OF THIS
39 SUBDIVISION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND TO
40 MAKE A DETERMINATION OF THE RELEVANT FACTS AND TO ISSUE SUBPOENAS IN
41 ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

42 4. THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION MAY BE ENFORCED
43 CONCURRENTLY BY THE DIRECTOR OF A MUNICIPAL CONSUMER AFFAIRS OFFICE, OR
44 BY THE TOWN ATTORNEY, CITY CORPORATION COUNSEL, OR OTHER LAWFUL DESIGNEE
45 OF A MUNICIPALITY OR LOCAL GOVERNMENT, AND ALL MONEYS COLLECTED THERE-
46 UNDER SHALL BE RETAINED BY SUCH MUNICIPALITY OR LOCAL GOVERNMENT.

47 S 3. This act shall take effect immediately.