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

9542

I N A S S E M B L Y

January 13, 2010

Introduced by M. of A. PHEFFER -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to the termination of pre-recorded telephone messages

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

Section 1. Subdivision 8 of section 399-p of the general business law, as amended by chapter 176 of the laws of 1998, is amended to read as follows:

8. Whenever there shall be a violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice, that the defendant has, in fact, violated this section an injunction may be issued by such court or justice enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of PARAGRAPH (A) OF subdivision three[,] OR SUBDIVISION four [or five] of this section has occurred, the court may impose a civil penalty of not more than two thousand dollars per call, up to a total of not more than twenty thousand dollars, for calls placed in violation of such subdivisions within a continuous seventy-two hour period. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF PARAGRAPH (B) OF SUBDIVISION THREE OR SUBDIVISION FIVE OF THIS SECTION HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF UP TO FIFTY THOUSAND DOLLARS. Whenever the court shall determine that a violation of subdivision six of this section, or a violation of subdivision six-a of this section, has occurred, the court may impose a civil penalty of not more than two thousand dollars. In connection with any such proposed applica-

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

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tion, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

S 2. This act shall take effect immediately.