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

5030

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. FLANAGAN -- 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 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:

Section 1. The general business law is amended by adding a new section 391-q to read as follows:

S 391-Q. RENTAL OF MOTOR VEHICLES; DISCRIMINATION ON THE BASIS OF GEOGRAPHICAL LOCATION. 1. IT SHALL BE UNLAWFUL FOR ANY MOTOR VEHICLE RENTAL AGENCY TO ENGAGE IN ANY OF THE FOLLOWING PRACTICES ON THE BASIS OF THE GEOGRAPHICAL LOCATION OF THE RESIDENCE OF THE PERSON ATTEMPTING TO ENTER INTO SUCH RENTAL AGREEMENT:

A. REFUSE TO RENT SUCH VEHICLE;

B. IMPOSE ANY ADDITIONAL CHARGE FOR THE RENTAL OF SUCH MOTOR VEHICLE; OR

C. IMPOSE ANY ADDITIONAL TERMS, CONDITIONS OR PRIVILEGES UPON THE RENTAL OF SUCH VEHICLE.

2. UPON ANY VIOLATION OF THIS SECTION, AN APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE TO A COURT OR JUSTICE HAVING JURISDICTION TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE RESPONDENT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF THE VIOLATION. IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE RESPONDENT HAS VIOLATED ANY PROVISION OF THIS SECTION, AN INJUNCTION MAY BE ISSUED BY THE 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 THIS

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

LBD00426-04-9

SECTION HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION.

3. IN ADDITION TO ANY RIGHT OF ACTION GRANTED TO THE ATTORNEY GENERAL PURSUANT TO THIS SECTION, ANY PERSON WHO HAS BEEN INJURED BY REASON OF ANY VIOLATION OF THIS SECTION MAY BRING AN ACTION IN HIS OR HER OWN NAME TO ENJOIN SUCH UNLAWFUL ACT OR PRACTICE, AN ACTION TO RECOVER HIS OR HER ACTUAL DAMAGES OR TWO HUNDRED FIFTY DOLLARS, WHICHEVER IS GREATER, OR BOTH SUCH ACTIONS. THE COURT MAY, IN ITS DISCRETION, INCREASE THE AWARD OF DAMAGES TO AN AMOUNT NOT TO EXCEED THREE TIMES THE ACTUAL DAMAGES UP TO ONE THOUSAND FIVE HUNDRED DOLLARS, IF THE COURT FINDS THE DEFENDANT WILLFULLY OR KNOWINGLY VIOLATED THE PROVISIONS OF THIS SECTION. THE COURT MAY AWARD REASONABLE ATTORNEYS' FEES TO A PREVAILING PLAINTIFF.

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