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

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2011-2012 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. PHEFFER, SILVER, AUBRY, DINOWITZ, GABRYSZAK -- Multi-Sponsored by -- M. of A. CLARK, COLTON, CYMBROWITZ, FARRELL, GALEF, GANTT, GLICK, GOTTFRIED, HIKIND, HOYT, JACOBS, MAYERSOHN, MILLMAN, ORTIZ, TOWNS -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law and the insurance law, in relation to the rental of motor vehicles

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

Section 1. Section 391-g of the general business law, as added by chapter 136 of the laws of 1977, is amended to read as follows:

S 391-g. Rental of motor vehicles; discrimination on the basis of age prohibited. 1. It shall be unlawful for any person, firm, partnership, association or corporation engaged in the business of renting motor vehicles to [refuse to rent such vehicle to any person eighteen years of age or older solely on the basis of age provided] ENGAGE IN ANY OF THE FOLLOWING PRACTICES ON THE BASIS OF THE AGE OF THE PERSON ATTEMPTING TO ENTER INTO SUCH RENTAL AGREEMENT, INCLUDING ON THE BASIS OF SUCH PERSON BEING EITHER OVER THE AGE OF SIXTY OR UNDER THE AGE OF TWENTY-FIVE, PROVIDED THAT SUCH PERSON IS AT LEAST EIGHTEEN YEARS OF AGE AND that insurance coverage for persons of such age is available[. Any]:

(A) REFUSE TO RENT SUCH VEHICLE;

(B) IMPOSE ANY ADDITIONAL CHARGE FOR THE RENTAL OF SUCH VEHICLE, EXCEPT THAT ANY actual extra cost for insurance related to the age of the person renting such motor vehicle may be passed on to such person IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE SUPERINTENDENT OF INSURANCE PURSUANT TO SECTION THREE THOUSAND FOUR HUNDRED FORTY OF THE INSURANCE LAW; OR

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

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

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2. [A knowing violation of this section shall be punishable by a fine not to exceed five hundred dollars] 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 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, AWARD THE PREVAILING PLAINTIFF IN SUCH ACTION A PENALTY UP TO ONE THOUSAND 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. Section 391-l of the general business law, as added by chapter 573 of the laws of 1980, subdivision 3 as amended by chapter 656 of the laws of 2002 and such section as redesignated by chapter 694 of the laws of 1995, is amended to read as follows:

S 391-l. Rental of motor vehicles; discrimination on the basis of credit card ownership, GEOGRAPHICAL LOCATION OF RESIDENCE OF RENTER OR PAST DRIVING HISTORY. 1. Definitions. As used in this section:

a. "Motor vehicle rental agency", or "agency", shall mean a person engaged in the business of renting motor vehicles in this state;

b. "Person" shall mean any individual, firm, PARTNERSHIP, ASSOCIATION, corporation or other legal entity;

c. "Motor vehicle" shall have the meaning ascribed thereto by section one hundred twenty-five of the vehicle and traffic law; [and]

d. "Credit card" shall mean any credit card, credit plate, charge plate or other identification card or device which is issued by a person to another person as the holder thereof, and may be used by such holder to obtain a cash advance or a loan or credit, or to purchase or rent property or services on the credit of the person issuing the credit card or of the holder; AND

E. "PAST DRIVING HISTORY" MEANS A COMPILATION OF INFORMATION PERTAINING TO ANY AUTHORIZED DRIVER'S PRIOR ACCIDENTS WHILE DRIVING A MOTOR VEHICLE OR VIOLATIONS OF ANY LAW OR REGULATION OF THIS OR ANY OTHER STATE PERTAINING TO MOTOR VEHICLES.

2. (A) It shall be unlawful for any [person, firm, partnership, association or corporation engaged in the business of renting motor vehicles to refuse to rent such vehicle to any person solely on the requirement of ownership of a credit card] MOTOR VEHICLE RENTAL AGENCY TO ENGAGE IN ANY OF THE FOLLOWING PRACTICES ON THE BASIS OF THE LACK OF OWNERSHIP OF

A CREDIT CARD BY THE PERSON ATTEMPTING TO ENTER INTO SUCH RENTAL AGREEMENT:

(I) REFUSE TO RENT SUCH VEHICLE;

(II) IMPOSE ANY ADDITIONAL CHARGE FOR THE RENTAL OF SUCH MOTOR VEHICLE; OR

(III) IMPOSE ANY ADDITIONAL TERMS, CONDITIONS OR PRIVILEGES UPON THE RENTAL OF SUCH VEHICLE, EXCEPT THAT ANY MOTOR VEHICLE RENTAL AGENCY MAY REQUIRE A PERSON ATTEMPTING TO ENTER INTO A RENTAL AGREEMENT WITHOUT A CREDIT CARD TO SUBMIT A CASH DEPOSIT AS LIMITED BY SUBDIVISION SEVEN OF SECTION THREE HUNDRED NINETY-SIX-Z OF THIS ARTICLE.

(B) ANY MOTOR VEHICLE RENTAL AGENCY WHICH REQUIRES A PERSON ATTEMPTING TO ENTER INTO A RENTAL AGREEMENT WITHOUT A CREDIT CARD TO SATISFY CASH QUALIFICATION CRITERIA IN ORDER TO QUALIFY AS A CASH CUSTOMER SHALL:

(I) COMPLY WITH AN INTERNAL POLICY IN COMPLIANCE WITH THIS SUBDIVISION; AND

(II) PROVIDE PROMPT NOTICE TO EACH AUTHORIZED DRIVER REQUESTING A RESERVATION WITHOUT A CREDIT CARD THAT THE AGENCY MAY REQUIRE SUCH DRIVER TO SATISFY SUCH CASH QUALIFICATION CRITERIA, AND THAT A COPY OF THE AGENCY'S INTERNAL POLICY IS AVAILABLE UPON REQUEST. AS USED IN THIS SUBPARAGRAPH, "PROMPT NOTICE" SHALL MEAN IN THE SAME TELEPHONE CONVERSATION AS THE DRIVER'S REQUEST TO RESERVE THE MOTOR VEHICLE IF SUCH REQUEST IS MADE BY TELEPHONE, IN THE SAME IN PERSON CONVERSATION AS THE DRIVER'S REQUEST TO RESERVE THE MOTOR VEHICLE IF SUCH REQUEST IS MADE IN PERSON, AND BY A WRITTEN NOTICE IN PLAIN LANGUAGE MAILED ON THE SAME BUSINESS DAY OF THE DRIVER'S REQUEST TO RESERVE THE MOTOR VEHICLE IF SUCH REQUEST IS MADE IN WRITING.

(C) NOTHING IN THIS SUBDIVISION SHALL PRECLUDE A MOTOR VEHICLE RENTAL AGENCY FROM MAKING AN INITIAL DETERMINATION TO REFUSE TO RENT TO AN AUTHORIZED DRIVER DUE TO HIS OR HER FAILURE TO SATISFY THE AGENCY'S CASH QUALIFICATION CRITERIA PROVIDED THAT:

(I) SUCH REFUSAL IS BASED ON RELIABLE INFORMATION THAT SUCH DRIVER DID NOT SATISFY THE AGENCY'S CASH QUALIFICATION CRITERIA;

(II) SUCH REFUSAL WAS IN COMPLIANCE WITH THE AGENCY'S INTERNAL POLICY;

(III) SUCH DRIVER IS AFFORDED THE RIGHT TO REBUT SUCH DETERMINATION BY FURNISHING THE AGENCY WITH RELIABLE INFORMATION AND SUCH RIGHT IS DESCRIBED IN THE WRITTEN NOTICE OF DENIAL OR THE WRITTEN CONFIRMATION OF DENIAL, AS APPLICABLE, PRESCRIBED BY PARAGRAPHS (D) AND (E) OF THIS SUBDIVISION;

(IV) THE AGENCY MAKES A NEW DETERMINATION IN GOOD FAITH BASED ON SUCH NEW INFORMATION WITHIN ONE WEEK THEREAFTER; AND

(V) THE AGENCY IS OTHERWISE IN COMPLIANCE WITH PARAGRAPHS (D), (E) AND (F) OF THIS SUBDIVISION.

(D) IF THE AUTHORIZED DRIVER'S REQUEST TO RESERVE A MOTOR VEHICLE IS MADE FOUR OR MORE DAYS PRIOR TO THE REQUESTED HOUR OF DEPARTURE, SUCH AGENCY SHALL MAKE AN INITIAL DETERMINATION, AND, IN THE EVENT OF AN INITIAL DETERMINATION TO REFUSE TO RENT, INFORM SUCH DRIVER THROUGH A WRITTEN NOTICE OF DENIAL MAILED SEVEN DAYS AFTER THE REQUEST IS MADE, OR THREE DAYS PRIOR TO THE SCHEDULED HOUR OF DEPARTURE, WHICHEVER IS EARLIER. SUCH WRITTEN NOTICE OF DENIAL SHALL STATE THE SOURCE OF THE INFORMATION WHICH FORMS THE BASIS FOR THE REFUSAL, AND THE BASIS FOR SUCH REFUSAL, AND BE ACCOMPANIED BY THE INTERNAL POLICY.

(E) IF THE AUTHORIZED DRIVER'S REQUEST TO RESERVE A MOTOR VEHICLE IS MADE THREE OR FEWER DAYS PRIOR TO THE REQUESTED HOUR OF DEPARTURE, SUCH AGENCY SHALL MAKE AN INITIAL DETERMINATION, AND, IN THE EVENT OF AN INITIAL DETERMINATION TO REFUSE TO RENT, PROVIDE ORAL NOTICE OF DENIAL WITHIN TWELVE HOURS OF THE REQUEST. SUCH ORAL NOTICE OF DENIAL SHALL BE

FOLLOWED WITHIN TWENTY-FOUR HOURS THEREAFTER WITH A WRITTEN CONFIRMATION OF DENIAL WHICH SHALL STATE THE SOURCE OF THE INFORMATION WHICH FORMS THE BASIS FOR THE REFUSAL, AND THE BASIS OF SUCH REFUSAL, AND SHALL BE ACCOMPANIED BY A COPY OF THE INTERNAL POLICY.

(F) ANY AGENCY WHICH REFUSES TO RENT TO AN AUTHORIZED DRIVER DUE TO SUCH DRIVER'S FAILURE TO SATISFY THE AGENCY'S CASH QUALIFICATION CRITERIA SHALL MAINTAIN ALL INFORMATION RELEVANT TO THE AGENCY'S DETERMINATION FOR A PERIOD OF AT LEAST ONE YEAR AFTER SUCH REFUSAL. ANY AGENCY WHICH MAKES AN INITIAL DETERMINATION UNDER PARAGRAPH (C) OF THIS SUBDIVISION BUT REVERSES SUCH DETERMINATION BASED ON NEW INFORMATION SHALL MAINTAIN ALL INFORMATION RELEVANT TO THE AGENCY'S DETERMINATION, INCLUDING THE INFORMATION WHICH FORMED THE BASIS FOR THE REVERSAL, IN THE AGENCY'S RECORDS, AND ADHERE TO SUCH REVERSAL, FOR AT LEAST ONE YEAR, OR THE PERIOD SUCH INFORMATION IS RELEVANT UNDER THE AGENCY'S INTERNAL POLICY, WHICHEVER IS LONGER. NOTHING IN THIS PARAGRAPH SHALL REQUIRE ANY MOTOR VEHICLE RENTAL AGENCY TO MAINTAIN ANY INFORMATION IF THE DRIVER REQUESTS OR AUTHORIZES THAT SUCH INFORMATION BE DELETED FROM THE AGENCY'S RECORDS.

(G) AN AUTHORIZED DRIVER'S CASH QUALIFICATION SHALL BE CONSIDERED BASED ON RELIABLE INFORMATION UNDER SUBPARAGRAPH (I) OF PARAGRAPH (C) OF THIS SUBDIVISION IF THE INFORMATION WAS FURNISHED TO THE MOTOR VEHICLE RENTAL AGENCY BY:

(I) THE AUTHORIZED DRIVER;

(II) THE PERSON WHO EXECUTES THE RENTAL AGREEMENT; OR

(III) A CONSUMER REPORTING AGENCY, AS DEFINED IN SECTION THREE HUNDRED EIGHTY-A OF THIS CHAPTER.

(H) ANY MOTOR VEHICLE RENTAL AGENCY WHICH REFUSES TO RENT A MOTOR VEHICLE TO ANY AUTHORIZED DRIVER DUE TO SUCH DRIVER'S FAILURE TO SATISFY THE AGENCY'S CASH QUALIFICATION CRITERIA SHALL MAKE AVAILABLE AT ALL RENTAL LOCATIONS TO ANY PERSON PROMPTLY UPON REQUEST THE AGENCY'S INTERNAL POLICY, WHICH SHALL INCLUDE, AT A MINIMUM:

(I) THE STANDARDS USED BY THE AGENCY TO DENY RENTALS;

(II) THE TYPES OF RELIABLE INFORMATION WHICH, PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (C) OF THIS SUBDIVISION, THE AGENCY MAY USE TO MAKE AN INITIAL DETERMINATION, AND PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (C) OF THIS SUBDIVISION, THE AUTHORIZED DRIVER MAY USE TO REBUT THE AGENCY'S INITIAL DETERMINATION TO REFUSE TO RENT;

(III) A PLAIN LANGUAGE STATEMENT OF THE PROCEDURES THE AUTHORIZED DRIVER MUST UNDERTAKE TO REBUT AN INITIAL DETERMINATION TO REFUSE TO RENT, WHICH SHALL BE SUFFICIENT TO APPRISE THE REASONABLE AUTHORIZED DRIVER HOW TO UNDERTAKE SUCH PROCEDURE AND WHICH SHALL INCLUDE A TELEPHONE NUMBER AND THE ADDRESS OF THE AGENCY LOCATION WHERE REBUTTALS MAY BE DIRECTED;

(IV) A PLAIN LANGUAGE DESCRIPTION OF THE PROVISIONS OF THIS SUBDIVISION;

(V) A STATEMENT THAT COMPLAINTS AS TO VIOLATIONS OF THIS SUBDIVISION MAY BE FILED WITH THE ATTORNEY GENERAL;

(VI) A DESCRIPTION OF THE RIGHT OF INJURED PERSONS TO BRING ACTIONS UNDER SUBDIVISION SIX OF THIS SECTION; AND

(VII) A DESCRIPTION OF THE PENALTIES PROVIDED UNDER SUBDIVISION FIVE OF THIS SECTION.

(I) AS USED IN THIS SUBDIVISION, "INITIAL DETERMINATION" SHALL MEAN THE FIRST DECISION FOLLOWING A REQUEST TO RESERVE A MOTOR VEHICLE AS TO WHETHER A MOTOR VEHICLE RENTAL AGENCY WILL RENT TO AN AUTHORIZED DRIVER DUE TO SUCH DRIVER'S SATISFACTION OF THE AGENCY'S CASH QUALIFICATION CRITERIA, WHICH SHALL BE REBUTTABLE AS PROVIDED IN THIS SUBDIVISION.

3. [A knowing violation of this section shall be punishable by a fine not to exceed one thousand dollars] 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.

4. (A) IT SHALL BE UNLAWFUL FOR ANY MOTOR VEHICLE RENTAL AGENCY TO ENGAGE IN ANY OF THE FOLLOWING PRACTICES ON THE BASIS OF THE PAST DRIVING HISTORY OF THE PERSON ATTEMPTING TO ENTER INTO SUCH RENTAL AGREEMENT, UNLESS SUCH PRACTICES ARE IN COMPLIANCE WITH THIS SUBDIVISION:

(I) REFUSE TO RENT SUCH VEHICLE;

(II) IMPOSE ANY ADDITIONAL CHARGE FOR THE RENTAL OF SUCH MOTOR VEHICLE; OR

(III) IMPOSE ANY ADDITIONAL TERMS, CONDITIONS OR PRIVILEGES UPON THE RENTAL OF SUCH VEHICLE.

(B) ANY MOTOR VEHICLE RENTAL AGENCY WHICH ENGAGES IN ANY OF THE PRACTICES LISTED IN PARAGRAPH (A) OF THIS SUBDIVISION DUE TO, IN WHOLE OR IN PART, THE PAST DRIVING HISTORY OF SUCH DRIVER SHALL:

(I) COMPLY WITH AN INTERNAL POLICY IN COMPLIANCE WITH THIS SUBDIVISION; AND

(II) PROVIDE PROMPT NOTICE TO EACH AUTHORIZED DRIVER REQUESTING A RESERVATION THAT THE AGENCY CONSIDERS AN AUTHORIZED DRIVER'S PAST DRIVING HISTORY IN DECIDING WHETHER TO RENT TO SUCH DRIVER AND/OR IN THE ESTABLISHMENT OF RENTAL POLICIES, AND THAT A COPY OF THE AGENCY'S INTERNAL POLICY IS AVAILABLE UPON REQUEST. AS USED IN THIS SUBPARAGRAPH, "PROMPT NOTICE" SHALL MEAN IN THE SAME TELEPHONE CONVERSATION AS THE DRIVER'S REQUEST TO RESERVE THE MOTOR VEHICLE IF SUCH REQUEST IS MADE BY TELEPHONE, IN THE SAME IN PERSON CONVERSATION AS THE DRIVER'S REQUEST TO RESERVE THE MOTOR VEHICLE IF SUCH REQUEST IS MADE IN PERSON, AND BY A WRITTEN NOTICE IN PLAIN LANGUAGE MAILED ON THE SAME BUSINESS DAY OF THE DRIVER'S REQUEST TO RESERVE THE MOTOR VEHICLE IF SUCH REQUEST IS MADE IN WRITING.

(C) NOTHING IN THIS SUBDIVISION SHALL PRECLUDE A MOTOR VEHICLE RENTAL AGENCY FROM MAKING AN INITIAL DETERMINATION TO ENGAGE IN ANY OF THE PRACTICES LISTED IN PARAGRAPH (A) OF THIS SUBDIVISION DUE TO A DRIVER'S PAST DRIVING HISTORY BASED ON AN INITIAL PRESUMPTION THAT THE INTERNAL POLICY WAS VIOLATED, PROVIDED THAT:

(I) SUCH PRACTICE WAS BASED ON RELIABLE INFORMATION THAT SUCH DRIVER HAD AN ACCIDENT WHILE DRIVING A MOTOR VEHICLE OR ON RELIABLE INFORMATION THAT SUCH DRIVER VIOLATED ANY LAW OR REGULATION OF THIS OR ANY OTHER STATE PERTAINING TO MOTOR VEHICLES;

(II) SUCH PRACTICE WAS IN COMPLIANCE WITH THE AGENCY'S INTERNAL POLICY;

(III) SUCH DRIVER IS AFFORDED THE RIGHT TO REBUT SUCH DETERMINATION BY FURNISHING THE AGENCY WITH A POLICE REPORT, A CRIMINAL OR CIVIL DECISION BY A COURT OR ARBITRATOR, AN INSURANCE COMPANY DETERMINATION OR OTHER SIMILAR RELIABLE INFORMATION AND SUCH RIGHT IS DESCRIBED IN THE WRITTEN NOTICE OR THE WRITTEN CONFIRMATION, AS APPLICABLE, PRESCRIBED BY PARAGRAPHS (D) AND (E) OF THIS SUBDIVISION;

(IV) THE AGENCY MAKES A NEW DETERMINATION IN GOOD FAITH BASED ON SUCH NEW INFORMATION WITHIN ONE WEEK THEREAFTER; AND

(V) THE AGENCY IS OTHERWISE IN COMPLIANCE WITH PARAGRAPHS (D), (E) AND (F) OF THIS SUBDIVISION.

NOTHING IN THIS PARAGRAPH SHALL REQUIRE AN AGENCY TO PERMIT A DRIVER TO REBUT AN INITIAL DETERMINATION BASED ON A CLAIM THAT A GOVERNMENTAL ENTITY WHICH FOUND THE DRIVER IN VIOLATION OF A MOTOR VEHICLE LAW OR REGULATION WAS INCORRECT IN ITS FINDING.

(D) IF THE AUTHORIZED DRIVER'S REQUEST TO RESERVE A MOTOR VEHICLE IS MADE FOUR OR MORE DAYS PRIOR TO THE REQUESTED HOUR OF DEPARTURE, SUCH AGENCY SHALL MAKE AN INITIAL DETERMINATION, AND, IN THE EVENT OF AN INITIAL DETERMINATION TO ENGAGE IN ANY OF THE PRACTICES LISTED IN PARAGRAPH (A) OF THIS SUBDIVISION, INFORM SUCH DRIVER THROUGH A WRITTEN NOTICE MAILED SEVEN DAYS AFTER THE REQUEST IS MADE, OR THREE DAYS PRIOR TO THE SCHEDULED HOUR OF DEPARTURE, WHICHEVER IS EARLIER. SUCH WRITTEN NOTICE SHALL STATE THE SOURCE OF THE INFORMATION WHICH FORMS THE BASIS FOR THE PRACTICE, AND THE BASIS FOR SUCH PRACTICE, AND BE ACCOMPANIED BY THE INTERNAL POLICY.

(E) IF THE AUTHORIZED DRIVER'S REQUEST TO RESERVE A MOTOR VEHICLE IS MADE THREE OR FEWER DAYS PRIOR TO THE REQUESTED HOUR OF DEPARTURE, SUCH AGENCY SHALL MAKE AN INITIAL DETERMINATION, AND, IN THE EVENT OF AN INITIAL DETERMINATION TO ENGAGE IN ANY OF THE PRACTICES LISTED IN PARAGRAPH (A) OF THIS SUBDIVISION, PROVIDE ORAL NOTICE WITHIN TWELVE HOURS OF THE REQUEST. SUCH ORAL NOTICE SHALL BE FOLLOWED WITHIN TWENTY-FOUR HOURS THEREAFTER WITH A WRITTEN CONFIRMATION WHICH SHALL STATE THE SOURCE OF THE INFORMATION WHICH FORMS THE BASIS FOR THE PRACTICE, AND THE BASIS OF SUCH PRACTICE, AND SHALL BE ACCOMPANIED BY A COPY OF THE INTERNAL POLICY.

(F) ANY AGENCY WHICH ENGAGES IN ANY OF THE PRACTICES LISTED IN PARAGRAPH (A) OF THIS SUBDIVISION DUE TO PAST DRIVING HISTORY SHALL MAINTAIN ALL INFORMATION RELEVANT TO THE AGENCY'S DETERMINATION FOR A PERIOD OF AT LEAST ONE YEAR AFTER ENGAGING IN SUCH PRACTICE. ANY AGENCY WHICH MAKES AN INITIAL DETERMINATION UNDER PARAGRAPH (C) OF THIS SUBDIVISION BUT REVERSES SUCH DETERMINATION BASED ON NEW INFORMATION SHALL MAINTAIN ALL INFORMATION RELEVANT TO THE AGENCY'S DETERMINATION, INCLUDING THE INFORMATION WHICH FORMED THE BASIS FOR THE REVERSAL, IN THE AGENCY'S RECORDS, AND ADHERE TO SUCH REVERSAL, FOR AT LEAST ONE YEAR, OR THE PERIOD SUCH INFORMATION IS RELEVANT UNDER THE AGENCY'S INTERNAL POLICY, WHICHEVER IS LONGER. NOTHING IN THIS PARAGRAPH SHALL REQUIRE ANY MOTOR VEHICLE RENTAL AGENCY TO MAINTAIN ANY INFORMATION IF THE DRIVER REQUESTS OR AUTHORIZES THAT SUCH INFORMATION IS DELETED FROM THE AGENCY'S RECORDS.

(G) AN AUTHORIZED DRIVER'S PAST DRIVING HISTORY SHALL BE CONSIDERED BASED ON RELIABLE INFORMATION UNDER SUBPARAGRAPH (I) OF PARAGRAPH (C) OF THIS SUBDIVISION IF THE INFORMATION WAS FURNISHED TO THE MOTOR VEHICLE RENTAL AGENCY BY:

(I) THE AUTHORIZED DRIVER;

(II) THE PERSON WHO EXECUTES THE RENTAL AGREEMENT; OR

(III) A GOVERNMENTAL ENTITY UNDER A LEGAL DUTY TO ACCURATELY COMPILE AND REPORT THE INFORMATION WHICH FORMS THE BASIS FOR THE PRACTICE.

(H) ANY MOTOR VEHICLE RENTAL AGENCY WHICH ENGAGES IN ANY OF THE PRACTICES LISTED IN PARAGRAPH (A) OF THIS SUBDIVISION DUE TO, IN WHOLE OR IN PART, THE PAST DRIVING HISTORY OF SUCH DRIVER SHALL MAKE AVAILABLE AT ALL RENTAL LOCATIONS TO ANY PERSON PROMPTLY UPON REQUEST THE AGENCY'S INTERNAL POLICY, WHICH SHALL INCLUDE, AT A MINIMUM:

(I) THE STANDARDS USED BY THE AGENCY TO ENGAGE IN SUCH PRACTICES;

(II) THE TYPES OF RELIABLE INFORMATION WHICH, PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (C) OF THIS SUBDIVISION, THE AGENCY MAY USE TO MAKE AN

INITIAL DETERMINATION, AND PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (C) OF THIS SUBDIVISION, THE AUTHORIZED DRIVER MAY REBUT THE AGENCY'S INITIAL DETERMINATION TO ENGAGE IN SUCH PRACTICES;

(III) A PLAIN LANGUAGE STATEMENT OF THE PROCEDURES THE AUTHORIZED DRIVER MUST UNDERTAKE TO REBUT AN AGENCY'S INITIAL DETERMINATION TO ENGAGE IN SUCH PRACTICES, WHICH SHALL BE SUFFICIENT TO APPRISE THE REASONABLE AUTHORIZED DRIVER HOW TO UNDERTAKE SUCH PROCEDURE AND WHICH SHALL INCLUDE A TELEPHONE NUMBER AND THE ADDRESS OF THE AGENCY LOCATION WHERE REBUTTALS MAY BE DIRECTED;

(IV) A PLAIN LANGUAGE DESCRIPTION OF THE PROVISIONS OF THIS SUBDIVISION;

(V) A STATEMENT THAT COMPLAINTS AS TO VIOLATIONS OF THIS SUBDIVISION MAY BE FILED WITH THE ATTORNEY GENERAL;

(VI) A DESCRIPTION OF THE RIGHT OF INJURED PERSONS TO BRING ACTIONS UNDER SUBDIVISION SIX OF THIS SECTION; AND

(VII) A DESCRIPTION OF THE PENALTIES PROVIDED UNDER SUBDIVISION FIVE OF THIS SECTION.

(I) NOTWITHSTANDING ANY PROVISION OF THIS SUBDIVISION, IT SHALL BE UNLAWFUL FOR ANY MOTOR VEHICLE RENTAL AGENCY TO ENGAGE IN ANY OF THE PRACTICES LISTED IN PARAGRAPH (A) OF THIS SUBDIVISION DUE TO, IN WHOLE OR IN PART, ANY PRIOR ACCIDENT WHILE DRIVING A MOTOR VEHICLE OR ANY VIOLATION OF ANY LAW OR REGULATION OF THIS OR ANY OTHER STATE PERTAINING TO MOTOR VEHICLES WHICH OCCURRED MORE THAN FOUR YEARS PRIOR TO THE DATE OF THE DRIVER'S REQUEST TO RENT THE MOTOR VEHICLE.

(J) AS USED IN THIS SUBDIVISION, "INITIAL DETERMINATION" SHALL MEAN THE FIRST DECISION FOLLOWING A REQUEST TO RESERVE A MOTOR VEHICLE AS TO WHETHER A MOTOR VEHICLE RENTAL AGENCY WILL ENGAGE IN ANY OF THE PRACTICES LISTED IN PARAGRAPH (A) OF THIS SUBDIVISION DUE TO THE PAST DRIVING HISTORY OF SUCH DRIVER, WHICH SHALL BE REBUTTABLE AS PROVIDED IN THIS SUBDIVISION.

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

6. 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, AWARD THE PREVAILING PLAINTIFF IN SUCH ACTION A PENALTY UP TO ONE THOUSAND 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 3. Subdivision 3 of section 391-1 of the general business law, as added by chapter 573 of the laws of 1980 and such section as redesignated by chapter 694 of the laws of 1995, is amended to read as follows:

3. [A knowing violation of this section shall be punishable by a fine not to exceed five hundred dollars] 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.

S 4. Subdivision 7 of section 396-z of the general business law is amended by adding a new paragraph (e) to read as follows:

(E) ANY SECURITY OR DEPOSIT IMPOSED BY A RENTAL VEHICLE COMPANY, BY CASH, CREDIT CARD OR OTHERWISE, USED AS SECURITY FOR THE PAYMENT OF THE RENTAL RATE, SHALL BE LIMITED TO ONE HUNDRED FIFTY PERCENT OF THE RENTAL RATE, MEASURED AS OF THE INCEPTION OF THE RENTAL AGREEMENT. NOTHING IN THIS PARAGRAPH SHALL AUTHORIZE ANY SECURITY, DEPOSIT OR CHARGE PROHIBITED BY THIS SUBDIVISION OR SUBDIVISION TEN OF THIS SECTION. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "RENTAL RATE" SHALL INCLUDE ALL CHARGES, EXCEPT TAXES AND ANY MILEAGE CHARGE, WHICH THE AUTHORIZED DRIVER MUST PAY FOR THE USE OF THE RENTAL VEHICLE.

S 5. Subdivision 6 of section 396-z of the general business law, as added by chapter 784 of the laws of 1988 and as renumbered by chapter 1 of the laws of 1994, is amended to read as follows:

6. (A) No rental vehicle company may require any security, deposit, or charge for damage in any form, by credit card or otherwise, during the term of the rental agreement or pending resolution of any dispute.

(B) ANY SECURITY OR DEPOSIT IMPOSED BY A RENTAL VEHICLE COMPANY, BY CASH, CREDIT CARD OR OTHERWISE, USED AS SECURITY FOR THE PAYMENT OF THE RENTAL RATE, SHALL BE LIMITED TO ONE HUNDRED FIFTY PERCENT OF THE RENTAL RATE, MEASURED AS OF THE INCEPTION OF THE RENTAL AGREEMENT. NOTHING IN THIS PARAGRAPH SHALL AUTHORIZE ANY SECURITY, DEPOSIT OR CHARGE PROHIBITED BY PARAGRAPH (A) OF THIS SUBDIVISION OR SUBDIVISION NINE OF THIS SECTION. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "RENTAL RATE" SHALL INCLUDE ALL CHARGES, EXCEPT TAXES AND ANY MILEAGE CHARGE, WHICH THE AUTHORIZED DRIVER MUST PAY FOR THE USE OF THE RENTAL VEHICLE.

S 6. Subdivision 15 of section 396-z of the general business law, as amended by chapter 731 of the laws of 2006, is amended and a new subdivision 16 is added to read as follows:

15. [In accordance with any applicable federal law or rule, every] EVERY rental vehicle company shall display the following INFORMATION in a conspicuous location VISIBLE TO ANY POTENTIAL CUSTOMER, with lettering that is legible and that shall be at least three-quarters of an inch boldface type:

[NOTICE: New York State Law prohibits the following practices by rental vehicle companies based upon race, color, ethnic origin, religion, disability, sex, marital status, or age: (1) refusal to rent; (2) the imposition of any additional charge (except in certain instances where the renter is under the age of 25). In addition, it is unlawful for any rental vehicle company to refuse to rent a vehicle to any person solely on the requirement of ownership of a credit card.]

"NOTICE: NEW YORK STATE LAW PROHIBITS THE FOLLOWING PRACTICES BY RENTAL VEHICLE COMPANIES BASED UPON RACE, CREED, RELIGION, COLOR, ETHNIC

ORIGIN, SEX, MARITAL STATUS, DISABILITY, AGE, LOCATION OR RENTER'S RESIDENCE AND CREDIT CARD OWNERSHIP: (1) THE REFUSAL TO RENT; (2) THE IMPOSITION OF ANY ADDITIONAL CHARGE; AND (3) THE IMPOSITION OF ANY ADDITIONAL TERMS, CONDITIONS OR PRIVILEGES UPON A RENTAL OF A VEHICLE. FURTHER, A RENTER'S LIABILITY FOR DAMAGES OR LOSS OF THE VEHICLE IS GENERALLY LIMITED TO $100. IN ADDITION, THE TOTAL CHARGE FOR EACH ADDITIONAL DRIVER MAY NOT EXCEED FIVE DOLLARS AND ANY REQUIRED DEPOSIT CANNOT EXCEED ONE HUNDRED FIFTY PERCENT OF THE RENTAL AGREEMENT. FOR INFORMATION ABOUT RENTAL VEHICLE LAWS, OR TO FILE A COMPLAINT, CONTACT THE NEW YORK STATE ATTORNEY GENERAL AT (ADDRESS AND TELEPHONE NUMBER OF REGIONAL OFFICE OF THE ATTORNEY GENERAL)."

16. 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, AWARD THE PREVAILING PLAINTIFF IN SUCH ACTION A PENALTY UP TO ONE THOUSAND 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 7. Section 396-z of the general business law is amended by adding two new subdivisions 14 and 15 to read as follows:

14. EVERY RENTAL VEHICLE COMPANY SHALL DISPLAY THE FOLLOWING INFORMATION IN A CONSPICUOUS LOCATION VISIBLE TO ANY POTENTIAL CUSTOMER, WITH LETTERING THAT IS LEGIBLE AND SHALL BE AT LEAST THREE-QUARTERS OF AN INCH BOLDFACE TYPE:

"NOTICE: NEW YORK STATE LAW PROHIBITS THE FOLLOWING PRACTICES BY RENTAL VEHICLE COMPANIES BASED UPON RACE, CREED, RELIGION, COLOR, ETHNIC ORIGIN, SEX, MARITAL STATUS, DISABILITY, AGE, LOCATION OF RENTER'S RESIDENCE AND CREDIT CARD OWNERSHIP: (1) THE REFUSAL TO RENT; (2) THE IMPOSITION OF ANY ADDITIONAL CHARGE; AND (3) THE IMPOSITION OF ANY ADDITIONAL TERMS, CONDITIONS OR PRIVILEGES UPON A RENTAL OF A VEHICLE. FURTHER, A RENTER'S LIABILITY FOR DAMAGES OR LOSS OF THE VEHICLE IS GENERALLY LIMITED TO $100. IN ADDITION, THE TOTAL CHARGE FOR EACH ADDITIONAL DRIVER MAY NOT EXCEED FIVE DOLLARS AND ANY REQUIRED DEPOSIT CANNOT EXCEED ONE HUNDRED FIFTY PERCENT OF THE RENTAL AGREEMENT. FOR INFORMATION ABOUT RENTAL VEHICLE LAWS, OR TO FILE A COMPLAINT, CONTACT THE NEW YORK STATE ATTORNEY GENERAL AT (ADDRESS AND TELEPHONE NUMBER OF REGIONAL OFFICE OF THE ATTORNEY GENERAL)."

15. 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, AWARD THE PREVAILING PLAINTIFF IN SUCH ACTION A PENALTY UP TO ONE THOUSAND 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 8. Section 398-b of the general business law, as amended by chapter 656 of the laws of 2002, is amended to read as follows:

S 398-b. Discrimination in car rentals prohibited. 1. [No car or vehicle rental agency shall refuse to rent a car or vehicle to any person otherwise qualified because of race, color, ethnic origin, religion, disability, or sex] IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM, PARTNER-

SHIP, ASSOCIATION OR CORPORATION ENGAGED IN THE BUSINESS OF RENTING MOTOR VEHICLES TO ENGAGE IN ANY OF THE FOLLOWING PRACTICES ON THE BASIS OF THE RACE, CREED, RELIGION, COLOR, ETHNIC ORIGIN, SEX, MARITAL STATUS OR DISABILITY 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. NOTWITHSTANDING ANY CHARGES AUTHORIZED BY PARAGRAPH (B) OF SUBDIVISION TEN OF SECTION THREE HUNDRED NINETY-SIX-Z OF THIS ARTICLE, IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION ENGAGED IN THE BUSINESS OF RENTING MOTOR VEHICLES, IN RESPONSE TO A REQUEST FROM A PERSON WITH A DISABILITY, TO FAIL TO TAKE ANY REASONABLE EFFORT TO PROVIDE SUCH PERSON, FREE OF CHARGE, WITH ANY ACCESSORIES NECESSARY FOR SUCH PERSON TO OPERATE SUCH VEHICLE. FOR PURPOSES OF THIS SUBDIVISION, A REASONABLE EFFORT SHALL BE ANY EFFORT THAT DOES NOT INCUR AN UNDULY BURDENSOME EXPENSE.

3. Any rental vehicle company found by a court of competent jurisdiction to have violated a provision of this section shall be subject to a penalty of not less than one thousand dollars nor more than twenty-five hundred dollars for each violation.

[3.] 4. (a) Whenever a rental vehicle company engages in a persistent or repeated business activity or conduct which discriminates against any individual based upon the individual's race, color, ethnic origin, religion, disability, or sex or membership in an otherwise protected class pursuant to federal law, the attorney general may apply, in the name of the people of the state of New York, to the supreme court of the state of New York, on five days notice, for an order enjoining the continuance of such business activity and directing restitution and damages. In any such proceeding, the attorney general may seek a civil penalty not to exceed five thousand dollars per violation and may recover costs pursuant to paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules.

(b) The term "persistent" as used in this subdivision shall include continuance or carrying on of any such business activity or conduct. The term "repeated" as used in this subdivision shall include repetition of any separate and distinct business activity or conduct which affect more than one person. The term "business activity" as used in this subdivision shall include policies and/or standard practices of the rental vehicle company.

(c) In connection with any such application, 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. Such authorization shall not abate or terminate by reason of any action or proceeding brought by the attorney general under this section.

5. 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, AWARD THE PREVAILING PLAINTIFF IN SUCH ACTION A PENALTY UP TO ONE THOUSAND 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 9. Section 398-b of the general business law, as added by chapter 494 of the laws of 1980, is amended to read as follows:

S 398-b. Discrimination in car rentals prohibited. [No car or vehicle rental agency shall refuse to rent a car or vehicle to any person otherwise qualified because of race, color, ethnic origin or sex] 1. IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION ENGAGED IN THE BUSINESS OF RENTING MOTOR VEHICLES TO ENGAGE IN ANY OF THE FOLLOWING PRACTICES ON THE BASIS OF THE RACE, CREED, RELIGION, COLOR, ETHNIC ORIGIN, SEX, MARITAL STATUS OR DISABILITY 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. NOTWITHSTANDING ANY CHARGES AUTHORIZED BY PARAGRAPH (B) OF SUBDIVISION NINE OF SECTION THREE HUNDRED NINETY-SIX-Z OF THIS ARTICLE, IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION ENGAGED IN THE BUSINESS OF RENTING MOTOR VEHICLES, IN RESPONSE TO A REQUEST FROM A PERSON WITH A DISABILITY, TO FAIL TO TAKE ANY REASONABLE EFFORT TO PROVIDE SUCH PERSON, FREE OF CHARGE, WITH ANY ACCESSORIES NECESSARY FOR SUCH PERSON TO OPERATE SUCH VEHICLE. FOR PURPOSES OF THIS SUBDIVISION, A REASONABLE EFFORT SHALL BE ANY EFFORT THAT DOES NOT INCUR AN UNDULY BURDENSOME EXPENSE.

3. ANY RENTAL VEHICLE COMPANY FOUND BY A COURT OF COMPETENT JURISDICTION TO HAVE VIOLATED A PROVISION OF THIS SECTION SHALL BE SUBJECT TO A PENALTY OF NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN TWENTY-FIVE HUNDRED DOLLARS FOR EACH VIOLATION.

4. (A) WHENEVER A RENTAL VEHICLE COMPANY ENGAGES IN A PERSISTENT OR REPEATED BUSINESS ACTIVITY OR CONDUCT WHICH DISCRIMINATES AGAINST ANY INDIVIDUAL BASED UPON THE INDIVIDUAL'S RACE, COLOR, ETHNIC ORIGIN, RELIGION, DISABILITY, OR SEX OR MEMBERSHIP IN AN OTHERWISE PROTECTED CLASS PURSUANT TO FEDERAL LAW, THE ATTORNEY GENERAL MAY APPLY, IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK, TO THE SUPREME COURT OF THE STATE OF NEW YORK, ON FIVE DAYS NOTICE, FOR AN ORDER ENJOINING THE CONTINUANCE OF SUCH BUSINESS ACTIVITY AND DIRECTING RESTITUTION AND DAMAGES. IN ANY SUCH PROCEEDING, THE ATTORNEY GENERAL MAY SEEK A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS PER VIOLATION AND MAY RECOVER COSTS PURSUANT TO PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES.

(B) THE TERM "PERSISTENT" AS USED IN THIS SUBDIVISION SHALL INCLUDE CONTINUANCE OR CARRYING ON OF ANY SUCH BUSINESS ACTIVITY OR CONDUCT. THE TERM "REPEATED" AS USED IN THIS SUBDIVISION SHALL INCLUDE REPETITION OF ANY SEPARATE AND DISTINCT BUSINESS ACTIVITY OR CONDUCT WHICH AFFECTS MORE THAN ONE PERSON. THE TERM "BUSINESS ACTIVITY" AS USED IN THIS SUBDIVISION SHALL INCLUDE POLICIES AND/OR STANDARD PRACTICES OF THE RENTAL VEHICLE COMPANY.

(C) IN CONNECTION WITH ANY SUCH APPLICATION, 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. SUCH AUTHORIZATION SHALL NOT ABATE OR TERMINATE BY REASON OF ANY ACTION OR PROCEEDING BROUGHT BY THE ATTORNEY GENERAL UNDER THIS SECTION.

5. 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, AWARD THE PREVAILING PLAINTIFF IN SUCH ACTION A PENALTY UP TO ONE THOUSAND 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 10. Section 3440 of the insurance law is amended by adding a new subsection (g) to read as follows:

(G) THE SUPERINTENDENT IS AUTHORIZED AND DIRECTED TO PROMULGATE RULES AND REGULATIONS TO GOVERN THE ACTUAL EXTRA COST FOR INSURANCE RELATING TO THE AGE OF THE PERSON RENTING A MOTOR VEHICLE TO BE PASSED ON TO SUCH PERSON PURSUANT TO SECTION THREE HUNDRED NINETY-ONE-G OF THE GENERAL BUSINESS LAW.

S 11. This act shall take effect on the thirtieth day after it shall have become a law and shall apply to any rental contract entered into on or after such effective date; provided, however, that the amendments to subdivision 3 of section 391-l of the general business law made by section two of this act, the amendments to subdivision 7 of section 396-z of the general business law made by section four of this act, the amendments to subdivisions 15 and 16 of section 396-z of the general business law made by section six of this act, and the amendments to section 398-b of the general business law made by section eight of this act shall not affect the expiration and repeal of such subdivisions and sections as provided in section 4 of chapter 656 of the laws of 2002, as amended, and shall expire and be deemed repealed therewith, when upon such date the provisions of sections three, five, seven and nine of this act shall take effect.