

LBD05566-01-1

1 SALE IS ADVERTISED TO START EARLIER THAN THE RETAILER'S NORMAL BUSINESS
2 HOURS; AND

3 D. DOORBUSTER SALES SHALL NOT INCLUDE "GOING OUT OF BUSINESS SALES" AS
4 DEFINED BY SECTION 20-308 OF THIS CHAPTER.

5 2. "COMMISSIONER." THE COMMISSIONER OF CONSUMER AFFAIRS.

6 S 20-540 LICENSE REQUIRED. IT SHALL BE UNLAWFUL FOR ANY PERSON TO
7 ADVERTISE OR TO PUBLISH NOTICE PERTAINING TO OR TO CONDUCT A DOORBUSTER
8 SALE WITHOUT FIRST OBTAINING A LICENSE ISSUED PURSUANT TO THIS SUBCHAP-
9 TER.

10 S 20-541 APPLICATION. 1. EACH RETAILER APPLYING FOR A LICENSE SHALL
11 FILE AN APPLICATION IN SUCH FORM AND DETAIL AS THE COMMISSIONER MAY
12 PRESCRIBE AND SHALL PAY A FEE OF ONE HUNDRED DOLLARS.

13 2. ALL APPLICATIONS FOR SUCH LICENSES SHALL BE FILED AT LEAST SIXTY
14 DAYS PRIOR TO THE DATE ON WHICH SUCH SALE IS TO COMMENCE.

15 3. THE FEE FOR FILING SUCH APPLICATION SHALL BE ONE HUNDRED DOLLARS.

16 4. IN ADDITION TO ANY OTHER INFORMATION REQUIRED, THE COMMISSIONER
17 SHALL REQUIRE THE FOLLOWING INFORMATION:

18 A. THE NAME AND ADDRESS OF THE APPLICANT, WHETHER THE APPLICANT IS THE
19 TRUE OWNER OF THE GOODS, WARES OR MERCHANDISE TO BE SOLD, AND

20 (I) IF THE APPLICANT BE A PARTNERSHIP, THE NAMES AND ADDRESSES OF ALL
21 PARTNERS, OR

22 (II) IF THE APPLICANT BE A CORPORATION OR ASSOCIATION, THE DATE AND
23 PLACE OF INCORPORATION OR ORGANIZATION, THE ADDRESS OF THE PRINCIPAL
24 OFFICE WITHIN THE STATE, THE NAMES AND ADDRESSES OF ALL THE OFFICERS OF
25 THE APPLICANT AND WHETHER A CONTROLLING INTEREST IN THE CORPORATION OR
26 ASSOCIATION WAS TRANSFERRED WITHIN SIX MONTHS PRIOR TO THE DATE OF THE
27 FILING OF THE APPLICATION.

28 B. THE NAME AND ADDRESS OF THE PERSON OR PERSONS WHO WILL BE IN CHARGE
29 AND RESPONSIBLE FOR THE CONDUCT OF SUCH SALE.

30 C. THE EXACT ADDRESS OF THE PLACE AT WHICH SUCH SALE IS TO BE
31 CONDUCTED AND THE LENGTH OF TIME THE APPLICANT HAS BEEN ENGAGED IN BUSI-
32 NESS AT SUCH LOCATION.

33 D. THE DATE AND TIME SUCH SALE IS TO BEGIN AND THE DURATION OF SUCH
34 SALE.

35 E. THE NATURE OF THE OCCUPANCY WHERE SUCH SALE IS TO BE HELD, WHETHER
36 BY LEASE OR OTHERWISE, AND THE EFFECTIVE DATE OF TERMINATION OF SUCH
37 OCCUPANCY.

38 F. A STATEMENT OF THE DESCRIPTIVE NAME OF THE SALE.

39 G. A VALID AND ACCURATE FLOOR PLAN OF THE LOCATION AT WHICH SUCH SALE
40 IS TO BE CONDUCTED, WITH THE DOORS TO BE USED AS ENTRANCES TO AND EXITS
41 FROM THE PROPOSED SALE CLEARLY MARKED.

42 H. A DETAILED PLAN FOR CROWD CONTROL THAT IS DESIGNED TO ENSURE ORDER-
43 LY AND SAFE ENTRANCE INTO THE STORE, INCLUDING THE FOLLOWING INFORMA-
44 TION:

45 (I) THE CAPACITY OF THE LOCATION OF SUCH SALE; AND

46 (II) AN EXPECTATION OF THE NUMBER OF PEOPLE ANTICIPATED TO ATTEND SUCH
47 SALE; AND

48 (III) THE NUMBER OF PERSONNEL ASSIGNED TO MANAGE THE ENTRANCES TO THE
49 STORE; AND

50 (IV) THE TIME AT WHICH CUSTOMERS WILL BE PERMITTED TO STAND IN LINE
51 PRIOR TO THE OPENING OF THE STORE; AND

52 (V) THE TOTAL NUMBER OF PERSONNEL ASSIGNED TO WORK FOR THE DURATION OF
53 SUCH SALE; AND

54 (VI) ANY ADDITIONAL INFORMATION AS THE COMMISSIONER MAY REQUIRE.

55 S 20-542 ISSUANCE OF LICENSE. UPON THE FILING OF SUCH APPLICATION, THE
56 COMMISSIONER SHALL ISSUE SUCH LICENSE FOR THE DATE OF THE PROPOSED

DOORBUSTER SALE IF HE OR SHE FINDS THAT THE CROWD CONTROL PLAN IS ADEQUATE TO ENSURE THE PUBLIC'S SAFETY FOR THE DURATION OF THE SALE.

S 20-543 RULES. 1. THE RETAILER SHALL ENSURE THAT ALL PERSONNEL SHALL RECEIVE ADEQUATE TRAINING BY A LICENSED SECURITY GUARD RELATING TO CROWD CONTROL, STORE SAFETY AND SALES PROCEDURES. THE LICENSED SECURITY GUARD AND THE STORE MANAGER SHALL SIGN A LETTER OF CERTIFICATION FOR THE EMPLOYEE TRAINED IN ORDER TO CERTIFY THAT THE EMPLOYEE HAS RECEIVED PROPER TRAINING.

2. THE RETAILER SHALL DEVELOP AND INSTITUTE STORE POLICIES AND PROCEDURES WHICH ARE DESIGNED TO PROMOTE THE FAIR AND ORDERLY SALE OF PRODUCTS WHICH ARE BEING OFFERED AT A REDUCED SALE PRICE INCLUDING BUT NOT LIMITED TO:

A. SECURED AND MARKED WAITING AREAS OUTSIDE THE RETAIL PREMISES;

B. A FIRST COME-FIRST SERVED OR LOTTERY NUMBER ISSUE SYSTEM FOR GOODS WHICH ARE LIMITED IN QUANTITY; AND

C. PLACEMENT OF CERTAIN LIMITED QUANTITY ITEMS IN RESTRICTED AREAS WHICH ARE SECURED BY STAFF AND/OR OTHER SECURITY MEASURES SO AS TO ALLOW FOR THE ORDERLY DISTRIBUTION OF SUCH ITEMS BY SALES ASSOCIATES ACCORDING TO SET POLICIES AND PROCEDURES.

3. THE COMMISSIONER MAY MAKE AND PROMULGATE SUCH RULES AND REGULATIONS AS HE OR SHE MAY DEEM NECESSARY FOR THE PROPER IMPLEMENTATION AND ENFORCEMENT OF THIS SUBCHAPTER.

S 20-544 VIOLATIONS. 1. ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBCHAPTER SHALL BE GUILTY OF A VIOLATION PUNISHABLE BY A FINE OF NOT LESS THAN FIVE THOUSAND DOLLARS. ANY SUBSEQUENT VIOLATIONS SHALL BE PUNISHABLE BY A FINE OF TEN THOUSAND DOLLARS.

2. ANY PERSON VIOLATING THIS SUBCHAPTER SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN FIVE THOUSAND DOLLARS. A PROCEEDING TO RECOVER ANY CIVIL PENALTY PURSUANT TO THIS SUBCHAPTER SHALL BE COMMENCED BY THE SERVICE OF A NOTICE OF HEARING THAT SHALL BE RETURNABLE TO THE ADMINISTRATIVE TRIBUNAL OF THE DEPARTMENT. ANY SUBSEQUENT VIOLATIONS SHALL BE PUNISHABLE BY A FINE OF TEN THOUSAND DOLLARS.

S 20-545 HEARING AUTHORITY. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT SHALL BE AUTHORIZED UPON DUE NOTICE AND HEARING, TO IMPOSE CIVIL PENALTIES FOR THE VIOLATION OF ANY PROVISION OF THIS SUBCHAPTER AND ANY RULES PROMULGATED THEREUNDER. SUCH DEPARTMENT SHALL HAVE THE POWER TO RENDER DECISIONS AND ORDERS AND TO IMPOSE CIVIL PENALTIES NOT TO EXCEED THE AMOUNTS SPECIFIED IN SECTION 20-544 OF THIS SUBCHAPTER FOR EACH SUCH VIOLATION. ALL PROCEEDINGS AUTHORIZED PURSUANT TO THIS SECTION SHALL BE CONDUCTED IN ACCORDANCE WITH RULES PROMULGATED BY THE COMMISSIONER. THE PENALTIES PROVIDED FOR IN SECTION 20-544 OF THIS SUBCHAPTER SHALL BE IN ADDITION TO ANY OTHER REMEDIES OR PENALTIES PROVIDED FOR THE ENFORCEMENT OF SUCH PROVISIONS UNDER ANY OTHER LAW INCLUDING, BUT NOT LIMITED TO, CIVIL OR CRIMINAL ACTIONS OR PROCEEDINGS.

2. ALL SUCH PROCEEDINGS SHALL BE COMMENCED BY THE SERVICE OF A NOTICE OF VIOLATION RETURNABLE TO THE ADMINISTRATIVE TRIBUNAL OF THE DEPARTMENT OF CONSUMER AFFAIRS. THE COMMISSIONER SHALL PRESCRIBE THE FORM AND WORDING OF NOTICES OF VIOLATION. THE NOTICE OF VIOLATION OR COPY THEREOF WHEN FILLED IN AND SERVED SHALL CONSTITUTE NOTICE OF THE VIOLATION CHARGED, AND, IF SWORN TO OR AFFIRMED, SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.

S 2. The general business law is amended by adding a new article 29-FF to read as follows:

ARTICLE 29-FF
DOORBUSTER SALES

SECTION 596-A. DEFINITIONS.

596-B. UNLAWFUL ADVERTISEMENT.

596-C. APPLICATION REQUIREMENTS.

596-D. RULES.

596-E. VIOLATIONS.

596-F. HEARING AUTHORITY.

S 596-A. DEFINITIONS. WHENEVER USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL MEAN AND INCLUDE: (A) "DOORBUSTER SALE." A SALE OR AN OFFER TO SELL TO THE PUBLIC, GOODS, WARES, AND MERCHANDISE OF ANY KIND AT A SUBSTANTIALLY DISCOUNTED PRICE FOR A LIMITED TIME WHERE AT LEAST ONE OF THE FOLLOWING FACTORS OCCUR:

(1) THE SALE FEATURES CERTAIN ITEMS AT A FURTHER REDUCED PRICE FOR A LIMITED TIME ON THE DAY OF THE SALE; AND

(2) THE SALE FEATURES A LIMITED QUANTITY OF CERTAIN ITEMS AT A FURTHER REDUCED PRICE TO ATTRACT USUALLY LARGER THAN ANTICIPATED CROWDS; AND

(3) LANGUAGE IS USED TO PROMOTE THE SALE WHICH ENTICES THE PUBLIC TO WAIT IN LINE PRIOR TO THE RETAILER'S OPENING, INCLUDING BUT NOT LIMITED TO "BLACK FRIDAY," "DOORBUSTER," AND "FIRST COME FIRST SERVED," OR THE SALE IS ADVERTISED TO START EARLIER THAN THE RETAILER'S NORMAL BUSINESS HOURS; AND

(4) DOORBUSTER SALES SHALL NOT INCLUDE "GOING OUT OF BUSINESS SALES" AS DEFINED BY SECTION FIVE HUNDRED EIGHTY-ONE OF THIS CHAPTER.

(B) "LICENSING AUTHORITY." THE DEPARTMENT OR OFFICER OF ANY CITY, TOWN OR VILLAGE ESTABLISHED FOR THE SPECIFIC PURPOSE OF ISSUING LICENSES, AND WHERE THERE IS NO SUCH DEPARTMENT OR OFFICER, IT SHALL MEAN THE CLERK OF SUCH CITY, TOWN OR VILLAGE.

S 596-B. UNLAWFUL ADVERTISEMENT. IT SHALL BE UNLAWFUL FOR ANY PERSON TO ADVERTISE OR TO PUBLISH NOTICE PERTAINING TO OR TO CONDUCT A DOORBUSTER SALE WITHOUT FIRST OBTAINING A LICENSE ISSUED PURSUANT TO THIS ARTICLE.

S 596-C. APPLICATION REQUIREMENTS. (A) ANY RETAILER DESIRING TO CONDUCT A DOORBUSTER SALE AS DEFINED IN SECTION FIVE HUNDRED NINETY-SIX-A OF THIS ARTICLE, SHALL FILE AN APPLICATION UNDER OATH TO THE LICENSING AUTHORITY OF THE APPROPRIATE CITY, TOWN, OR VILLAGE IN WHICH THE SALE IS TO BE HELD. ANY RETAILER DESIRING TO CONDUCT A DOORBUSTER SALE LOCATED WITHIN ANY BOROUGH OF THE CITY OF NEW YORK SHALL COMPLY WITH THE PROVISIONS SET FORTH WITHIN SUBCHAPTER THIRTY-THREE OF CHAPTER TWO OF TITLE TWENTY OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

(B) ALL APPLICATIONS FOR SUCH LICENSES SHALL BE FILED AT LEAST SIXTY DAYS PRIOR TO THE DATE ON WHICH SUCH SALE IS TO COMMENCE.

(C) THE FEE FOR FILING SUCH APPLICATION SHALL BE ONE HUNDRED DOLLARS.

(D) IN ADDITION TO ANY OTHER INFORMATION REQUIRED, THE LICENSING AUTHORITY SHALL REQUIRE THE FOLLOWING INFORMATION: (I) THE NAME AND ADDRESS OF THE APPLICANT, WHETHER THE APPLICANT IS THE TRUE OWNER OF THE GOODS, WARES OR MERCHANDISE TO BE SOLD, AND

(A) IF THE APPLICANT BE A PARTNERSHIP, THE NAMES AND ADDRESSES OF ALL PARTNERS, OR

(B) IF THE APPLICANT BE A CORPORATION OR ASSOCIATION, THE DATE AND PLACE OF INCORPORATION OR ORGANIZATION, THE ADDRESS OF THE PRINCIPAL OFFICE WITHIN THE STATE, THE NAMES AND ADDRESSES OF ALL THE OFFICERS OF THE APPLICANT AND WHETHER A CONTROLLING INTEREST IN THE CORPORATION OR ASSOCIATION WAS TRANSFERRED WITHIN SIX MONTHS PRIOR TO THE DATE OF THE FILING OF THE APPLICATION.

(II) THE NAME AND ADDRESS OF THE PERSON OR PERSONS WHO WILL BE IN CHARGE AND RESPONSIBLE FOR THE CONDUCT OF SUCH SALE.

1 (III) THE EXACT ADDRESS OF THE PLACE AT WHICH SUCH SALE IS TO BE
2 CONDUCTED AND THE LENGTH OF TIME THE APPLICANT HAS BEEN ENGAGED IN BUSI-
3 NESS AT SUCH LOCATION.

4 (IV) THE DATE AND TIME SUCH SALE IS TO BEGIN AND THE DURATION OF SUCH
5 SALE.

6 (V) THE NATURE OF THE OCCUPANCY WHERE SUCH SALE IS TO BE HELD, WHETHER
7 BY LEASE OR OTHERWISE, AND THE EFFECTIVE DATE OF TERMINATION OF SUCH
8 OCCUPANCY.

9 (VI) A STATEMENT OF THE DESCRIPTIVE NAME OF THE SALE.

10 (VII) A VALID AND ACCURATE FLOOR PLAN OF THE LOCATION AT WHICH SUCH
11 SALE IS TO BE CONDUCTED, WITH THE DOORS TO BE USED AS ENTRANCES TO AND
12 EXITS FROM THE PROPOSED SALE CLEARLY MARKED.

13 (VIII) A DETAILED PLAN FOR CROWD CONTROL THAT IS DESIGNED TO ENSURE
14 ORDERLY AND SAFE ENTRANCE INTO THE STORE, INCLUDING THE FOLLOWING INFOR-
15 MATION:

16 (A) THE CAPACITY OF THE LOCATION OF SUCH SALE; AND

17 (B) AN EXPECTATION OF THE NUMBER OF PEOPLE ANTICIPATED TO ATTEND SUCH
18 SALE; AND

19 (C) THE NUMBER OF PERSONNEL ASSIGNED TO MANAGE THE ENTRANCES TO THE
20 STORE; AND

21 (D) THE TIME AT WHICH CUSTOMERS WILL BE PERMITTED TO STAND IN LINE
22 PRIOR TO THE OPENING OF THE STORE; AND

23 (E) THE TOTAL NUMBER OF PERSONNEL ASSIGNED TO WORK FOR THE DURATION OF
24 SUCH SALE; AND

25 (F) ANY ADDITIONAL INFORMATION AS THE LICENSING AUTHORITY MAY REQUIRE.

26 (E) UPON COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE AND SUBJECT TO
27 A FINDING BY THE LICENSING AUTHORITY OF THE APPROPRIATE CITY, TOWN OR
28 VILLAGE IN WHICH THE DOORBUSTER SALE IS TO BE HELD, THAT THE CROWD
29 CONTROL PLAN IS ADEQUATE TO ENSURE THE PUBLIC'S SAFETY FOR THE DURATION
30 OF THE DOORBUSTER SALE, SUCH LICENSING AUTHORITY SHALL ISSUE A LICENSE
31 TO CONDUCT THE DOORBUSTER SALE, WITHIN FORTY-EIGHT HOURS AFTER
32 SUBMISSION OF THE APPLICATION, EXCLUSIVE OF SATURDAYS, SUNDAYS AND
33 PUBLIC HOLIDAYS.

34 S 596-D. RULES. (A) THE RETAILER SHALL ENSURE THAT ALL PERSONNEL SHALL
35 RECEIVE ADEQUATE TRAINING BY A LICENSED SECURITY GUARD RELATING TO CROWD
36 CONTROL, STORE SAFETY AND SALES PROCEDURES. THE LICENSED SECURITY GUARD
37 AND THE STORE MANAGER SHALL SIGN A LETTER OF CERTIFICATION FOR THE
38 EMPLOYEE TRAINED IN ORDER TO CERTIFY THAT THE EMPLOYEE HAS RECEIVED
39 PROPER TRAINING.

40 (B) THE RETAILER SHALL DEVELOP AND INSTITUTE STORE POLICIES AND PROCE-
41 DURES WHICH ARE DESIGNED TO PROMOTE THE FAIR AND ORDERLY SALE OF
42 PRODUCTS WHICH ARE BEING OFFERED AT A REDUCED SALE PRICE INCLUDING BUT
43 NOT LIMITED TO:

44 (1) SECURED AND MARKED WAITING AREAS OUTSIDE THE RETAIL PREMISES;

45 (2) A FIRST COME-FIRST SERVED OR LOTTERY NUMBER ISSUE SYSTEM FOR GOODS
46 WHICH ARE LIMITED IN QUANTITY; AND

47 (3) PLACEMENT OF CERTAIN LIMITED QUANTITY ITEMS IN RESTRICTED AREAS
48 WHICH ARE SECURED BY STAFF AND/OR OTHER SECURITY MEASURES SO AS TO ALLOW
49 FOR THE ORDERLY DISTRIBUTION OF SUCH ITEMS BY SALES ASSOCIATES ACCORDING
50 TO SET POLICIES AND PROCEDURES.

51 (C) THE LICENSING AUTHORITY OF THE APPROPRIATE CITY, TOWN OR VILLAGE
52 IN WHICH THE DOORBUSTER SALE IS TO BE HELD, MAY MAKE AND PROMULGATE SUCH
53 RULES AND REGULATIONS AS HE OR SHE MAY DEEM NECESSARY FOR THE PROPER
54 IMPLEMENTATION AND ENFORCEMENT OF THIS ARTICLE.

55 S 596-E. VIOLATIONS. (A) ANY PERSON WHO VIOLATES THE PROVISIONS OF
56 THIS ARTICLE SHALL BE GUILTY OF A VIOLATION PUNISHABLE BY A FINE OF NOT

1 LESS THAN FIVE THOUSAND DOLLARS. ANY SUBSEQUENT VIOLATIONS SHALL BE
2 PUNISHABLE BY A FINE OF TEN THOUSAND DOLLARS.

3 (B) ANY PERSON VIOLATING THIS ARTICLE SHALL BE SUBJECT TO A CIVIL
4 PENALTY OF NOT LESS THAN FIVE THOUSAND DOLLARS. A PROCEEDING TO RECOVER
5 ANY CIVIL PENALTY PURSUANT TO THIS ARTICLE SHALL BE COMMENCED BY THE
6 SERVICE OF A NOTICE OF HEARING THAT SHALL BE RETURNABLE TO THE LICENSING
7 AUTHORITY OF THE APPROPRIATE CITY, TOWN OR VILLAGE IN WHICH THE DOORBUS-
8 TER SALE IS TO BE HELD. ANY SUBSEQUENT VIOLATIONS SHALL BE PUNISHABLE
9 BY A FINE OF TEN THOUSAND DOLLARS.

10 S 596-F. HEARING AUTHORITY. (A) NOTWITHSTANDING ANY OTHER PROVISION OF
11 LAW, THE LICENSING AUTHORITY OF THE APPROPRIATE CITY, TOWN OR VILLAGE IN
12 WHICH THE DOORBUSTER SALE IS TO BE HELD, SHALL BE AUTHORIZED UPON DUE
13 NOTICE AND HEARING, TO IMPOSE CIVIL PENALTIES FOR THE VIOLATION OF ANY
14 PROVISION OF THIS ARTICLE AND ANY RULES PROMULGATED THEREUNDER. SUCH
15 LICENSING AUTHORITY SHALL HAVE THE POWER TO RENDER DECISIONS AND ORDERS
16 AND TO IMPOSE CIVIL PENALTIES NOT TO EXCEED THE AMOUNTS SPECIFIED IN
17 SECTION FIVE HUNDRED NINETY-SIX-E OF THIS ARTICLE FOR EACH SUCH
18 VIOLATION. ALL PROCEEDINGS AUTHORIZED PURSUANT TO THIS SECTION SHALL BE
19 CONDUCTED IN ACCORDANCE WITH RULES PROMULGATED BY SUCH LICENSING AUTHOR-
20 ITY. THE PENALTIES PROVIDED FOR IN SECTION FIVE HUNDRED NINETY-SIX-E OF
21 THIS ARTICLE SHALL BE IN ADDITION TO ANY OTHER REMEDIES OR PENALTIES
22 PROVIDED FOR THE ENFORCEMENT OF SUCH PROVISIONS UNDER ANY OTHER LAW
23 INCLUDING, BUT NOT LIMITED TO, CIVIL OR CRIMINAL ACTIONS OR PROCEEDINGS.

24 (B) ALL SUCH PROCEEDINGS SHALL BE COMMENCED BY THE SERVICE OF A NOTICE
25 OF VIOLATION RETURNABLE TO THE LICENSING AUTHORITY. SUCH LICENSING
26 AUTHORITY SHALL PRESCRIBE THE FORM AND WORDING OF NOTICES OF VIOLATION.
27 THE NOTICE OF VIOLATION OR COPY THEREOF WHEN FILLED IN AND SERVED SHALL
28 CONSTITUTE NOTICE OF THE VIOLATION CHARGED, AND, IF SWORN TO OR
29 AFFIRMED, SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.

30 S 3. This act shall take effect immediately.