

197

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. HEVESI, HOYT, BENEDETTO, JAFFEE, M. MILLER, CYMBROWITZ, CASTRO, TITONE, BOYLAND, GABRYSZAK, DESTITO, MAISEL -- Multi-Sponsored by -- M. of A. CUSICK, FARRELL, GLICK, MARKEY, MAYER-SOHN, ROBINSON, WEISENBERG -- read once and referred to the Committee on Consumer Affairs and Protection

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

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

LBD01563-01-1

1 NEW YORK STATE CONSUMER PROTECTION BOARD AT (INSERT THE CURRENT TELE-
2 PHONE NUMBER ESTABLISHED BY THE STATE CONSUMER PROTECTION BOARD FOR
3 RECEIVING INQUIRIES FROM CONSUMERS) OR (INSERT THE ADDRESS OF THE
4 WEBSITE CREATED PURSUANT TO PARAGRAPH 1 OF SUBDIVISION THREE OF SECTION
5 553 OF THE EXECUTIVE LAW)"

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

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

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

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

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

48 S 3. This act shall take effect immediately.