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

3143

2011-2012 Regular Sessions

I N A S S E M B L Y

January 24, 2011

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

AN ACT to amend the general business law, in relation to the regulation of unsolicited circulars

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

Section 1. Legislative intent. In the interest of further eliminating litter and improving the quality of life for New York residents, and of reducing waste removal and recycling costs to local governments, and of reducing the use of our natural resources, the legislature finds that there is a compelling government interest in regulating the distribution of unwanted handbills and telephone directories.

S 2. The general business law is amended by adding a new section 399-j to read as follows:

S 399-J. REGULATION OF UNSOLICITED CIRCULARS. 1. THE GOVERNING BODY OF ANY COUNTY OR CITY IN THE STATE OF NEW YORK IS AUTHORIZED TO ESTABLISH, BY ADOPTION OF A LOCAL LAW, A REGISTRY FOR RESIDENTS WHO WISH TO REFUSE THE DELIVERY OF ANY HANDBILL, CIRCULAR OR OTHER PRINTED MATTER OF A COMMERCIAL OR BUSINESS NATURE TO THEIR RESIDENCE, INCLUDING ANY TELEPHONE DIRECTORY, UNLESS THE TELEPHONE DIRECTORY IS THAT PUBLISHED BY THE LOCAL EXCHANGE TELEPHONE CORPORATION, OR ITS AFFILIATES, PROVIDING TELEPHONE SERVICE TO THAT PERSON IN ACCORDANCE WITH THE PROVISIONS OF SECTION NINETY-ONE OF THE PUBLIC SERVICE LAW. ANY CITY OR COUNTY WHICH ESTABLISHES SUCH A REGISTRY SHALL ENTER THE NAME OF THE REQUESTING RESIDENT IN SUCH REGISTRY. SUCH REQUESTS SHALL BE MADE IN WRITING, BY PHONE AT A DESIGNATED NUMBER OR NUMBERS OR BY ELECTRONIC COMMUNICATION AT AN ELECTRONIC MAIL ADDRESS OR WEBSITE DESIGNATED BY THE COUNTY OR CITY. EACH COUNTY OR CITY ESTABLISHING SUCH A REGISTRY SHALL DESIGNATE A LOCAL GOVERNMENT AGENCY TO MAINTAIN THE REGISTRY AND TO BE RESPONSIBLE FOR ENFORCEMENT OF THE PROVISIONS OF THIS SECTION.

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

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2. IN ORDER TO CONTINUE DISTRIBUTION IN ANY COUNTY OR CITY ESTABLISHING SUCH A REGISTRY, ALL DISTRIBUTORS OF SUCH HANDBILLS, CIRCULARS OR OTHER LIKE PRINTED MATTER SHALL PROVIDE THE LOCAL GOVERNMENT AGENCY DESIGNATED BY THAT COUNTY OR CITY WITH ACCURATE CONTACT INFORMATION, INCLUDING AN ADDRESS AND PHONE NUMBER. FAILURE TO PROVIDE ACCURATE CONTACT INFORMATION OR DISCONTINUE DISTRIBUTION SHALL CONSTITUTE A VIOLATION OF THE PROVISIONS OF THIS SECTION AND SHALL SUBJECT THE VIOLATOR TO FINES AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION. IF THE DISTRIBUTOR IN VIOLATION CANNOT BE LOCATED, THE COMPANY OR COMPANIES DOING THE ADVERTISING WILL BE SUBJECT TO THE SAME FINES. EVERY SIX WEEKS THE LOCAL GOVERNMENT AGENCY DESIGNATED BY THAT COUNTY OR CITY SHALL PROVIDE DISTRIBUTORS WITH AN UPDATED LIST OF ALL RESIDENTS WHO DO NOT WANT DISTRIBUTION. DISTRIBUTORS THEN HAVE SIX WEEKS TO UPDATE THEIR LISTS AND DISCONTINUE DISTRIBUTION.

3. VIOLATORS OF THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN ONE HUNDRED DOLLARS AND NOT MORE THAN TWO HUNDRED FIFTY DOLLARS FOR A FIRST VIOLATION. THE CIVIL PENALTY SHALL BE NOT LESS THAN TWO HUNDRED FIFTY DOLLARS AND NOT MORE THAN FIVE HUNDRED DOLLARS FOR A SECOND VIOLATION AND EACH VIOLATION THEREAFTER.

4. IF ANY CLAUSE, SENTENCE OR PROVISION OF THIS SECTION SHALL BE HELD TO BE UNCONSTITUTIONAL BY A COURT OF COMPETENT JURISDICTION, THE REMAINDER OF THIS SECTION SHALL NOT BE AFFECTED THEREBY.

S 3. This act shall take effect immediately.