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

February 3, 2011

Introduced by M. of A. CYMBROWITZ, CAHILL, MILLMAN, SCARBOROUGH, JAFFEE, ROBINSON -- Multi-Sponsored by -- M. of A. DenDEKKER, MARKEY, McENENY, PHEFFER, RUSSELL, SWEENEY, TOWNS, WEISENBERG -- read once and referred to the Committee on Economic Development

AN ACT to amend the general business law and the agriculture and markets law, in relation to requiring gasoline stations to provide free air pumps and water for use in servicing motor vehicles

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

Section 1. Section 396-x of the general business law, as added by chapter 616 of the laws of 1984, is amended to read as follows:

S 396-x. Gasoline stations; air pumps required. 1. Definition. As used in this section: "dealer" shall mean any person owning or operating a premise or facility with four or more gas dispensing nozzles for the retail sale of motor fuels for use in motor vehicles.

2. Any dealer must provide on the premises where motor fuel is sold at retail for use in motor vehicles AND MAKE AVAILABLE AT NO COST TO CUSTOMERS, a functioning motor driven air compressor capable of inflating automobile tires [for use by customers], A GAUGE FOR MEASURING AIR PRESSURE, AND WATER, FOR USE IN SERVICING ANY MOTOR VEHICLE, during hours in which such station is open for business.

3. (A) Wilful failure to comply with the provisions of this section shall subject a dealer to a civil penalty of up to [twenty-five] FIFTY dollars for each day such failure occurs. If the failure to comply results from the breakdown of the air compressor, the failure to repair within a reasonable time shall constitute wilful conduct.

(B) THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION MAY BE ENFORCED CONCURRENTLY BY THE DIRECTOR OF A MUNICIPAL CONSUMER AFFAIRS OFFICE, OR BY THE TOWN ATTORNEY, CITY CORPORATION COUNSEL, OR OTHER LAWFUL DESIGNEE OF A MUNICIPALITY OR LOCAL GOVERNMENT, AND ALL MONEYS COLLECTED UNDER THIS SECTION SHALL BE RETAINED BY SUCH MUNICIPALITY OR LOCAL GOVERNMENT.

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

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(C) NO DEALER SHALL BE GUILTY OF THE INFRACTION SPECIFIED IN PARAGRAPH (A) OF THIS SUBDIVISION IF THAT PERSON, WITHIN SEVEN DAYS AFTER RECEIVING NOTIFICATION FROM THE DIRECTOR OF A MUNICIPAL CONSUMER AFFAIRS OFFICE, OR THE TOWN ATTORNEY, CITY CORPORATION COUNSEL, OTHER LAWFUL DESIGNEE OF A MUNICIPALITY OR LOCAL GOVERNMENT, OR ATTORNEY GENERAL OF ANY VIOLATION OF THIS SECTION, MAKES WHATEVER CHANGES ARE NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

4. EVERY DEALER IN THIS STATE SHALL DISPLAY, AT A CONSPICUOUS PLACE ON, AT, OR NEAR THE DISPENSING APPARATUS, AT LEAST ONE CLEARLY VISIBLE SIGN WHICH SHALL READ AS FOLLOWS: "NEW YORK LAW REQUIRES THIS STATION TO PROVIDE FREE AIR AND WATER FOR AUTOMOTIVE PURPOSES TO ITS CUSTOMERS.

IF YOU HAVE A COMPLAINT NOTIFY THE STATION ATTENDANT AND/OR CALL THIS TOLL-FREE TELEPHONE NUMBER: 1(800)_____." ALL LETTERS, FIGURES, OR NUMERALS ON SUCH SIGN, HOWEVER AFFIXED, MARKED, IMPRINTED, PLACED, OR EMBOSSED, SHALL BE AT LEAST THREE-FOURTHS OF AN INCH IN HEIGHT AND ALL LINES OR MARKS USED IN THE MAKING OR FORMING OF ALL THE LETTERS, FIGURES, OR NUMERALS WHICH ARE A PART OF THE SIGN SHALL BE AT LEAST ONE-EIGHTH OF AN INCH IN WIDTH. AS USED IN THIS SUBDIVISION, "AUTOMOTIVE PURPOSES" DOES NOT INCLUDE THE WASHING OF VEHICLES.

S 2. Section 16 of the agriculture and markets law is amended by adding a new subdivision 45 to read as follows:

45. (A) THE DEPARTMENT SHALL, NO LATER THAN JANUARY FIRST, TWO THOUSAND TWELVE, ESTABLISH A TOLL-FREE TELEPHONE NUMBER FOR RECEIVING COMPLAINTS RELATED TO THE PROVISION OF FREE AIR AND WATER TO CUSTOMERS OF GASOLINE STATIONS PURSUANT TO SECTION THREE HUNDRED NINETY-SIX-X OF THE GENERAL BUSINESS LAW, AS ADDED BY CHAPTER SIX HUNDRED SIXTEEN OF THE LAWS OF NINETEEN HUNDRED EIGHTY-FOUR, AND SUBDIVISION SIX OF SECTION ONE HUNDRED NINETY-TWO OF THIS CHAPTER. THE TOLL-FREE TELEPHONE NUMBER THEREBY ESTABLISHED SHALL BE PRINTED ON THE SIGN REQUIRED PURSUANT TO SUCH SECTION. THE TOLL-FREE NUMBER MAY BE AN EXISTING NUMBER ESTABLISHED BY THE DEPARTMENT FOR RECEIVING INQUIRIES FROM CONSUMERS.

(B) EMPLOYEES OF THE DEPARTMENT, UPON NOTICE OF A COMPLAINT FORWARDED PURSUANT TO THIS SECTION, OR BY ANY OTHER MEANS, SHALL FORWARD THE CONTENTS OF SUCH COMPLAINT TO THE APPROPRIATE MUNICIPALITY OR LOCAL GOVERNMENT FOR THE PURPOSES OF ADDRESSING SUCH COMPLAINT.

S 3. Subdivision 6 of section 192 of the agriculture and markets law, as added by chapter 126 of the laws of 1985, is amended to read as follows:

6. Gasoline stations; air pumps required. a. Definition. As used in this subdivision: "dealer" shall mean any person owning or operating a premise or facility with four or more gas dispensing nozzles for the retail sale of motor fuels for use in motor vehicles.

b. Any dealer must provide on the premises where motor fuel is sold at retail for use in motor vehicles AND MAKE AVAILABLE AT NO COST a functioning motor driven air compressor capable of inflating automobile tires [for use by customers], A GAUGE FOR MEASURING AIR PRESSURE, AND WATER, FOR USE IN SERVICING ANY MOTOR VEHICLE, during hours in which such station is open for business.

c. (I) Wilful failure to comply with the provisions of this subdivision shall subject a dealer to a civil penalty of up to [twenty-five] FIFTY dollars for each day such failure occurs. If the failure to comply results from the breakdown of the air compressor, the failure to repair within a reasonable time shall constitute wilful conduct.

(II) THE PROVISIONS OF PARAGRAPH B OF THIS SUBDIVISION MAY BE ENFORCED CONCURRENTLY BY THE DIRECTOR OF A MUNICIPAL CONSUMER AFFAIRS OFFICE, OR BY THE TOWN ATTORNEY, CITY CORPORATION COUNSEL, OR OTHER LAWFUL DESIGNEE

OF A MUNICIPALITY OR LOCAL GOVERNMENT, AND ALL MONEYS COLLECTED THEREUNDER SHALL BE RETAINED BY SUCH MUNICIPALITY OR LOCAL GOVERNMENT.

(III) NO DEALER SHALL BE GUILTY OF THE INFRACTION SPECIFIED IN THIS SUBDIVISION IF THAT PERSON, WITHIN SEVEN DAYS AFTER RECEIVING NOTIFICATION FROM THE DIRECTOR OF A MUNICIPAL CONSUMER AFFAIRS OFFICE, OR THE TOWN ATTORNEY, CITY CORPORATION COUNSEL, OTHER LAWFUL DESIGNEE OF A MUNICIPALITY OR LOCAL GOVERNMENT, OR ATTORNEY GENERAL OF ANY VIOLATION OF THIS SUBDIVISION, MAKES WHATEVER CHANGES ARE NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THIS SUBDIVISION.

D. EVERY DEALER IN THIS STATE SHALL DISPLAY, AT A CONSPICUOUS PLACE ON, AT, OR NEAR THE DISPENSING APPARATUS, AT LEAST ONE CLEARLY VISIBLE SIGN WHICH SHALL READ AS FOLLOWS: "NEW YORK LAW REQUIRES THIS STATION TO PROVIDE FREE AIR AND WATER FOR AUTOMOTIVE PURPOSES TO ITS CUSTOMERS.

IF YOU HAVE A COMPLAINT NOTIFY THE STATION ATTENDANT AND/OR CALL THIS TOLL FREE TELEPHONE NUMBER: 1 (800) _____." ALL LETTERS, FIGURES, OR NUMERALS ON SUCH SIGN, HOWEVER AFFIXED, MARKED, IMPRINTED, PLACED, OR EMBOSSED, SHALL BE AT LEAST THREE-FOURTHS OF AN INCH IN HEIGHT AND ALL LINES OR MARKS USED IN THE MAKING OR FORMING OF ALL THE LETTERS, FIGURES, OR NUMERALS WHICH ARE A PART OF THE SIGN SHALL BE AT LEAST ONE-EIGHTH OF AN INCH IN WIDTH. AS USED IN THIS SUBDIVISION, AUTOMOTIVE PURPOSES DOES NOT INCLUDE THE WASHING OF VEHICLES.

S 4. This act shall take effect April 1, 2012; provided that the department of agriculture and markets shall establish the toll-free telephone number as required by section two of this act on or before January 1, 2012.