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

7232

2011-2012 Regular Sessions

I N A S S E M B L Y

April 19, 2011

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

AN ACT to amend the general business law, in relation to requiring a warning to be printed on baby-bottle and sippy cup packaging concerning tooth decay

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

Section 1. The general business law is amended by adding a new section 391-r to read as follows:

S 391-R. BABY-BOTTLES AND SIPPY CUPS; LABEL REQUIRED. 1. DEFINITIONS. AS USED IN THIS SECTION, THE TERM:

A. "SIPPY CUP" SHALL MEAN A VESSEL WITH A DUCK-BILLED LID, BILL-SHAPED EXTENSION OR BILL-SHAPED SPOUT PRIMARILY INTENDED FOR USE BY CHILDREN UNDER FIVE YEARS OF AGE;

B. "PACKAGING" SHALL MEAN ANY TYPE OF CONTAINER, ARTICLE, OR ITEM THAT IS USED TO CONTAIN OR HOLD AN INDIVIDUAL OR GROUP OF BABY-BOTTLES AND/OR SIPPY CUPS WHEN SOLD TO CONSUMERS. PACKAGING SHALL NOT INCLUDE THE CONTAINER, ARTICLE, OR ITEM THAT IS USED TO CONTAIN OR HOLD AN INDIVIDUAL OR GROUP OF BABY-BOTTLES AND/OR SIPPY CUPS WHEN SUCH ARE SHIPPED TO THE MERCHANT OR RETAILER.

2. A. EVERY MANUFACTURER OR IMPORTER OF BABY-BOTTLES AND/OR SIPPY CUPS SOLD OR DISTRIBUTED IN NEW YORK STATE SHALL CLEARLY AND CONSPICUOUSLY LABEL SUCH PRODUCT, OR ITS PACKAGING IN LIKE OR SIMILAR TERMS TO THE FOLLOWING:

"WARNING: ALLOWING YOUR CHILD TO USE THIS PRODUCT FOR PROLONGED PERIODS SEPARATE FROM REGULAR MEALTIMES OR TO GO TO SLEEP WHILE DRINKING LIQUIDS, OTHER THAN WATER, FROM THIS BABY-BOTTLE OR SIPPY CUP (WHICHEVER IS APPLICABLE TO THE PRODUCT UPON WHICH THE LABEL WILL BE PLACED) MAY CAUSE OR CONTRIBUTE TO EARLY CHILDHOOD TOOTH DECAY."

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

LBD10556-01-1

B. THIS SUBDIVISION SHALL APPLY ONLY TO BABY-BOTTLES AND SIPPY CUPS MANUFACTURED OR IMPORTED ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION.

3. WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, AN APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH VIOLATION; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS ARTICLE, AN INJUNCTION MAY BE ISSUED BY SUCH 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 ARTICLE HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION AND NOT MORE THAN ONE THOUSAND DOLLARS FOR ANY SUBSEQUENT VIOLATION. IN CONNECTION WITH ANY SUCH PROPOSED 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.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.