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

3838--A

2011-2012 Regular Sessions

I N  S E N A T E

March 7, 2011

Introduced by Sen. ALESI -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged and said bill committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to the regulation of synthetic turf products

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 390-d to read as follows:

S 390-D. REGULATION OF SYNTHETIC TURF PRODUCTS. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "SYNTHETIC TURF PRODUCT" SHALL MEAN A SURFACE OF TURF FIBERS COMPOSED OF SYNTHETIC MATERIALS MADE TO RESEMBLE GRASS OR SOME OTHER LIVE VEGETATION THAT IS USED IN PLACE OF GRASS TO SURFACE PARKS, OUTDOOR PLAYING OR ATHLETIC FIELDS, INDOOR ATHLETIC FACILITIES OR OTHER VENUES.

(B) "CERTIFICATION OF COMPLIANCE WITH SYNTHETIC TURF PRODUCT LEAD STANDARDS" SHALL MEAN A DOCUMENT VERIFIED BY A MANUFACTURER OF A PARTICULAR SYNTHETIC TURF PRODUCT WHICH SHALL INCLUDE THE LEAD CONTENT LEVEL IN PARTS PER MILLION WITH REFERENCE TO SUCH SYNTHETIC TURF PRODUCT. A CERTIFIED COPY OF SUCH DOCUMENT SHALL BE PROVIDED TO THE USER AND THE INSTALLER OF THE SYNTHETIC TURF PRODUCT, AND A COPY OF SAME RETAINED BY THE MANUFACTURER. A COPY OF SAID CERTIFICATE OF COMPLIANCE SHALL CONSTITUTE PROOF THAT THE USER AND THE INSTALLER IS IN COMPLIANCE WITH THIS SECTION.

2. ENFORCEMENT OF THIS SECTION. (A) WHENEVER THE ATTORNEY GENERAL SHALL BELIEVE FROM EVIDENCE SATISFACTORY TO HIM OR HER THAT ANY PERSON, FIRM, CORPORATION OR ASSOCIATION OR AGENT OR EMPLOYEE THEREOF HAS

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

LBD09999-02-2

VIOLATED ANY PROVISION OF THIS SECTION, HE OR SHE MAY BRING AN ACTION IN THE SUPREME COURT OF THE STATE OF NEW YORK FOR A JUDGMENT ENJOINING THE CONTINUANCE OF SUCH VIOLATION AND REQUIRING ANY NECESSARY REMEDIATION, AND FOR A CIVIL PENALTY OF NOT MORE THAN TEN THOUSAND DOLLARS FOR EACH VIOLATION, EXCEPT THAT THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN THIRTY THOUSAND DOLLARS IF THE VIOLATION IS KNOWING AND WILLFUL. IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE DEFENDANT HAS VIOLATED ANY PROVISION OF THIS SECTION, NO PROOF SHALL BE REQUIRED THAT ANY PERSON HAS BEEN INJURED THEREBY NOR THAT THE DEFENDANT KNOWINGLY OR INTENTIONALLY VIOLATED SUCH PROVISION. IN SUCH ACTION PRELIMINARY RELIEF MAY BE GRANTED UNDER ARTICLE SIXTY-THREE OF THE CIVIL PRACTICE LAW AND RULES. BEFORE ANY VIOLATION OF THIS SECTION IS SOUGHT TO BE ENJOINED, THE ATTORNEY GENERAL SHALL BE REQUIRED TO GIVE THE PERSON AGAINST WHOM SUCH PROCEEDING IS CONTEMPLATED NOTICE BY CERTIFIED MAIL AND AN OPPORTUNITY TO PRODUCE A CERTIFICATION OF COMPLIANCE WITH SYNTHETIC TURF PRODUCT LEAD STANDARDS WITHIN FIVE BUSINESS DAYS AFTER RECEIPT OF NOTICE THAT WOULD ESTABLISH THAT PROCEEDINGS SHOULD NOT BE INSTITUTED AGAINST HIM OR HER UNLESS THE ATTORNEY GENERAL SHALL FIND, IN ANY CASE IN WHICH HE OR SHE SEEKS PRELIMINARY RELIEF, THAT TO GIVE SUCH NOTICE AND OPPORTUNITY IS NOT IN THE PUBLIC INTEREST.

(B) NO MANUFACTURER OR SUPPLIER OF SYNTHETIC TURF PRODUCT SHALL SELL, CAUSE TO SELL, SUPPLY, INSTALL OR CAUSE TO INSTALL SUCH PRODUCTS WITHIN THE STATE CONTAINING FIFTY (50) OR MORE PARTS OF LEAD PER EACH ONE MILLION PARTS OF ANY SYNTHETIC TURF PRODUCT.

(C) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO SYNTHETIC TURF PRODUCTS INSTALLED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

S 2. This act shall take effect immediately.