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

290

2011-2012 Regular Sessions

I N  A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. ORTIZ -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the general business law, in relation to establishing a two dollar surcharge on sexually oriented media; and to amend the state finance law, in relation to establishing the crime victims fund

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 399-ddd to read as follows:

S 399-DDD. SEXUALLY ORIENTED MEDIA; SURCHARGE. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

A. "NUDE" SHALL MEAN:

(I) ENTIRELY UNCLOTHED; OR

(II) CLOTHED IN A MANNER THAT LEAVES UNCOVERED OR VISIBLE THROUGH LESS THAN FULLY OPAQUE CLOTHING ANY PORTION OF THE BREASTS BELOW THE TOP OF THE AREOLA OF THE BREASTS, IF THE PERSON IS FEMALE, OR ANY PORTION OF THE GENITALS OR BUTTOCKS; AND

B. "SEXUALLY ORIENTED MEDIA" SHALL MEAN A MAGAZINE, VIDEO, DVD OR INTERNET WEBSITE WHOSE DOMAIN NAME IS REGISTERED IN THIS STATE, WHERE THE CONTENT OF SUCH MAGAZINE, VIDEO, DVD OR INTERNET WEBSITE FEATURES NUDE PICTURES OR NUDE PERFORMANCES.

2. A SURCHARGE SHALL BE IMPOSED ON ANY SEXUALLY ORIENTED MEDIA AS FOLLOWS:

A. FOR EACH MAGAZINE, VIDEO OR DVD PURCHASED IN THIS STATE, TWO DOLLARS FOR EACH MAGAZINE, VIDEO OR DVD PURCHASED; OR

B. FOR EACH DOWNLOAD PURCHASED FROM AN INTERNET WEBSITE, TWO DOLLARS FOR EACH DOWNLOAD PURCHASED.

3. ANY PERSON, FIRM, CORPORATION, PARTNERSHIP OR ANY OTHER BUSINESS ENTITY THAT SELLS SEXUALLY ORIENTED MEDIA SHALL BE LIABLE FOR THE COLLECTION OF THE SURCHARGE IMPOSED BY THIS SECTION. EVERY BUSINESS

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

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SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL REMIT THE TOTAL OF FUNDS COLLECTED FROM THE SURCHARGE ESTABLISHED PURSUANT TO THIS SECTION TO THE COMMISSIONER OF TAXATION AND FINANCE FOR DEPOSIT INTO THE CRIME VICTIMS FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-SEVEN OF THE STATE FINANCE LAW.

S 2. The state finance law is amended by adding a new section 87 to read as follows:

S 87. CRIME VICTIMS FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL REVENUE FUND TO BE KNOWN AS THE "CRIME VICTIMS FUND".

2. SUCH FUND SHALL CONSIST OF THE REVENUES RECEIVED PURSUANT TO SECTION THREE HUNDRED NINETY-NINE-DDD OF THE GENERAL BUSINESS LAW, AND ALL OTHER MONIES APPROPRIATED, CREDITED, OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. MONIES OF THE FUND WHEN ALLOCATED, SHALL BE MADE AVAILABLE TO THE COMMISSIONER OF CORRECTIONAL SERVICES TO FUND PROGRAMS FOR VICTIMS OF CRIME, INCLUDING, BUT NOT LIMITED TO, VICTIMS OF DOMESTIC VIOLENCE, HATE CRIMES, HUMAN TRAFFICKING AND CHILD PROSTITUTION.

4. MONEY SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE COMMISSIONER OF CORRECTIONAL SERVICES.

S 3. This act shall take effect on the thirtieth day after it shall have become a law.