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 9, 2011

Introduced by M. of A. TITUS, BENEDETTO, COOK, PHEFFER, COLTON, J. RIVERA, CAHILL -- Multi-Sponsored by -- M. of A. GOTTFRIED, GUNTHER, JACOBS, JAFFEE, JEFFRIES, JOHNS, V. LOPEZ, MAYERSOHN, McENENY, MILLMAN, O'DONNELL, N. RIVERA, ROBINSON, ROSENTHAL, SCARBOROUGH, WEISENBERG, WRIGHT, ZEBROWSKI -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to cellular telephone applications

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 349-e to read as follows:

S 349-E. CELLULAR APPLICATIONS; PROTECTION. 1. AS USED IN THIS SECTION:

(A) "CELLULAR TELEPHONE SERVICE SUPPLIER" MEANS A BUSINESS ENTITY WHICH PROVIDES RETAIL CELLULAR TELEPHONE SERVICE WITHIN NEW YORK STATE.

(B) "CELLULAR TELEPHONE" MEANS A CELLULAR MOBILE RADIO TELEPHONE OR OTHER RADIO TELEPHONE NOT REQUIRING AN ACCESS LINE FOR SERVICE.

(C) "CELLULAR TELEPHONE SUBSCRIBER" MEANS ANY PERSON ENROLLED IN A CELLULAR TELEPHONE SERVICE SUBSCRIBER PLAN WHETHER OR NOT SUCH SUBSCRIBER'S CELLULAR TELEPHONE SERVICES ARE ACTIVE OR SUSPENDED.

2. CELLULAR TELEPHONE SUBSCRIBERS WHO PURCHASE CELLULAR APPLICATIONS, GAMES AND/OR RINGTONES FROM A CELLULAR TELEPHONE SERVICE SUPPLIER SHALL BE ALLOWED TO TRANSFER SUCH PREVIOUSLY PURCHASED PRODUCTS TO CELLULAR TELEPHONES WHICH HAVE BEEN UPGRADED AND/OR RETURNED TO THE CELLULAR TELEPHONE SERVICE PROVIDER DUE TO A DEFECT OR FOR ANY OTHER REASON. WHERE THE CELLULAR TELEPHONE IS COVERED UNDER A POLICY FOR LOSS AND/OR THEFT THE CELLULAR TELEPHONE SUBSCRIBER SHALL BE ENTITLED TO HAVE ALL PREVIOUSLY PURCHASED APPLICATIONS, GAMES AND/OR RINGTONES INSTALLED IN THEIR NEW CELLULAR TELEPHONE OR SHALL HAVE THE OPTION OF RECEIVING A CREDIT TO THEIR ACCOUNT FOR THE PURCHASE AMOUNT.

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

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3. THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION SHALL ONLY BE APPLICABLE TO CELLULAR TELEPHONE SUBSCRIBERS WHO REMAIN WITH THE SAME CELLULAR TELEPHONE SERVICE PROVIDER AND SHALL NOT APPLY TO CELLULAR TELEPHONE SUBSCRIBERS WHO SWITCH CELLULAR TELEPHONE SERVICE PROVIDERS, UNLESS A MERGER OR ACQUISITION HAS TAKEN PLACE WITH THE CELLULAR TELEPHONE SERVICE PROVIDER WITH WHOM THE CELLULAR TELEPHONE SUBSCRIBER HAS SWITCHED TO.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.