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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, McENE-
NY, MILLMAN, O'DONNELL, N. RIVERA, ROBINSON, ROSENTHAL, SCARBOROUGH,
WEISENBERG, WRIGHT, ZEBROWSKI -- read once and referred to the Commit-
tee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to cellular tele-
phone applications

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

1 Section 1. The general business law is amended by adding a new section
2 349-e to read as follows:
3 S 349-E. CELLULAR APPLICATIONS; PROTECTION. 1. AS USED IN THIS
4 SECTION:
5 (A) "CELLULAR TELEPHONE SERVICE SUPPLIER" MEANS A BUSINESS ENTITY
6 WHICH PROVIDES RETAIL CELLULAR TELEPHONE SERVICE WITHIN NEW YORK STATE.
7 (B) "CELLULAR TELEPHONE" MEANS A CELLULAR MOBILE RADIO TELEPHONE OR
8 OTHER RADIO TELEPHONE NOT REQUIRING AN ACCESS LINE FOR SERVICE.
9 (C) "CELLULAR TELEPHONE SUBSCRIBER" MEANS ANY PERSON ENROLLED IN A
10 CELLULAR TELEPHONE SERVICE SUBSCRIBER PLAN WHETHER OR NOT SUCH SUBSCRIB-
11 ER'S CELLULAR TELEPHONE SERVICES ARE ACTIVE OR SUSPENDED.
12 2. CELLULAR TELEPHONE SUBSCRIBERS WHO PURCHASE CELLULAR APPLICATIONS,
13 GAMES AND/OR RINGTONES FROM A CELLULAR TELEPHONE SERVICE SUPPLIER SHALL
14 BE ALLOWED TO TRANSFER SUCH PREVIOUSLY PURCHASED PRODUCTS TO CELLULAR
15 TELEPHONES WHICH HAVE BEEN UPGRADED AND/OR RETURNED TO THE CELLULAR
16 TELEPHONE SERVICE PROVIDER DUE TO A DEFECT OR FOR ANY OTHER REASON.
17 WHERE THE CELLULAR TELEPHONE IS COVERED UNDER A POLICY FOR LOSS AND/OR
18 THEFT THE CELLULAR TELEPHONE SUBSCRIBER SHALL BE ENTITLED TO HAVE ALL
19 PREVIOUSLY PURCHASED APPLICATIONS, GAMES AND/OR RINGTONES INSTALLED IN
20 THEIR NEW CELLULAR TELEPHONE OR SHALL HAVE THE OPTION OF RECEIVING A
21 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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1 3. THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION SHALL ONLY BE
2 APPLICABLE TO CELLULAR TELEPHONE SUBSCRIBERS WHO REMAIN WITH THE SAME
3 CELLULAR TELEPHONE SERVICE PROVIDER AND SHALL NOT APPLY TO CELLULAR
4 TELEPHONE SUBSCRIBERS WHO SWITCH CELLULAR TELEPHONE SERVICE PROVIDERS,
5 UNLESS A MERGER OR ACQUISITION HAS TAKEN PLACE WITH THE CELLULAR TELE-
6 PHONE SERVICE PROVIDER WITH WHOM THE CELLULAR TELEPHONE SUBSCRIBER HAS
7 SWITCHED TO.

8 S 2. This act shall take effect on the first of January next succeed-
9 ing the date on which it shall have become a law.