

4684

2011-2012 Regular Sessions

I N   S E N A T E

April 14, 2011

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Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to providing for notice of compatibility to purchasers of child safety seats

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

1     Section 1. Legislative findings and purpose. The legislature finds and  
2 declares that the safest method to transport young children when riding  
3 in passenger cars is in a federally approved child safety seat. New  
4 York's mandatory child restraint law has demonstrated its value in  
5 protecting young children from fatalities and injuries when involved in  
6 motor vehicle accidents. It is critical to the children's safety that  
7 they are protected in a properly fitting child safety seat. The National  
8 Highway Traffic Safety Administration estimates that a properly used  
9 child safety seat reduces the risk of fatality by seventy-one percent  
10 and the risk of serious injury by sixty-seven percent among children  
11 less than five years of age.

12     However, the legislature finds that many child safety seats are not  
13 used properly. There exist compatibility problems in the design of child  
14 restraints that make secure installation of child safety seats in some  
15 vehicle seating positions difficult and, occasionally, impossible. Not  
16 all child safety seats can be used effectively in all makes and models  
17 of cars. An improperly installed child safety seat can reduce its poten-  
18 tial benefits and cause injuries and/or death to children using them.

19     Additionally, the legislature finds and declares that consumers should  
20 be made aware that certain child restraint devices may be inappropriate  
21 for certain automobile makes and models.

22     Therefore, the legislature intends by this act to ensure consumers be  
23 provided information concerning the compatibility of child safety seats  
24 with the automobiles in which they will be used.

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

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1 S 2. The general business law is amended by adding a new section 399-  
2 ff to read as follows:

3 S 399-FF. CHILD SAFETY SEATS; LABELING REQUIREMENTS. 1. AS USED IN  
4 THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

5 (A) "LABEL" MEANS A DISPLAY OF WRITTEN, PRINTED OR GRAPHIC MATTER UPON  
6 THE IMMEDIATE CONTAINER OF ANY CHILD SAFETY SEAT OR IN THE CASE OF A  
7 CHILD SAFETY SEAT WHICH IS UNPACKAGED OR IS NOT PACKAGED IN AN IMMEDIATE  
8 CONTAINER INTENDED OR SUITABLE FOR DELIVERY TO THE ULTIMATE CONSUMER, A  
9 DISPLAY OF SUCH MATTER DIRECTLY UPON THE CHILD SAFETY SEAT INVOLVED OR  
10 UPON A TAG OR SUITABLE MATERIAL AFFIXED THERETO. LABEL SHALL INCLUDE A  
11 PERMANENTLY AFFIXED OR IMPRINTED NOTICE ON THE ACTUAL CHILD SAFETY SEAT.

12 (B) "CHILD SAFETY SEAT" MEANS ANY SPECIALLY DESIGNED DETACHABLE OR  
13 REMOVABLE SEAT WHICH MEETS THE FEDERAL MOTOR VEHICLE SAFETY STANDARDS  
14 SET FORTH IN 49 C.F.R. 571.213.

15 2. NO MANUFACTURER, FIRM, CORPORATION, ASSOCIATION OR AGENT OR EMPLOY-  
16 EE THEREOF SHALL IMPORT, MANUFACTURE, SELL, HOLD FOR SALE OR DISTRIB-  
17 UTION ANY CHILD SAFETY SEAT INTENDED FOR USE BY A CHILD LESS THAN FOUR  
18 YEARS OF AGE WHICH FAILS TO CONSPICUOUSLY DISCLOSE ON ITS LABEL A WARN-  
19 ING OF COMPATIBILITY OF THE CHILD SAFETY SEAT WITH AUTOMOBILES.

20 3. ANY CHILD SAFETY SEAT INTENDED FOR USE BY A CHILD LESS THAN FOUR  
21 YEARS OF AGE MUST BE LABELED AS FOLLOWS:

22 "ATTENTION: NOT ALL CHILD SAFETY SEATS ARE COMPATIBLE WITH ALL MOTOR  
23 VEHICLES."

24 4. WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, APPLICATION  
25 MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE  
26 STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL  
27 PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF  
28 NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH  
29 VIOLATION; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR  
30 JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS SECTION, AN  
31 INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND  
32 RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY  
33 PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH  
34 PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS  
35 PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE  
36 HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITU-  
37 TION. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS  
38 SECTION HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE  
39 THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION, BUT IN NO EVENT SHALL THE  
40 TOTAL AMOUNT OF SUCH PENALTIES EXCEED TWENTY-FIVE THOUSAND DOLLARS. IN  
41 CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY GENERAL IS  
42 AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE RELEVANT FACTS  
43 AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND  
44 RULES.

45 5. IN ADDITION TO THE RIGHT OF ACTION GRANTED TO THE ATTORNEY GENERAL  
46 PURSUANT TO THIS SECTION, ANY PERSON WHO HAS BEEN INJURED BY REASON OF  
47 ANY VIOLATION OF THIS SECTION MAY BRING AN ACTION IN HIS OR HER OWN NAME  
48 TO ENJOIN SUCH UNLAWFUL ACT OR PRACTICE, AN ACTION TO RECOVER HIS OR HER  
49 ACTUAL DAMAGES OR ONE HUNDRED DOLLARS, WHICHEVER IS GREATER, OR BOTH  
50 SUCH ACTIONS. THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES TO A  
51 PREVAILING PLAINTIFF.

52 S 3. This act shall take effect one year after it shall have become a  
53 law and shall apply to child safety seats imported, manufactured, sold,  
54 held for sale or distributed in this state on and after such effective  
55 date.