

5317

2011-2012 Regular Sessions

I N   S E N A T E

May 5, 2011

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Introduced by Sen. FUSCHILLO -- 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 requiring a warning to be printed on baby-bottle and sippy cup packaging concerning tooth decay

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

1     Section 1. The general business law is amended by adding a new section  
2     391-r to read as follows:  
3     S 391-R. BABY-BOTTLES AND SIPPY CUPS; LABEL REQUIRED. 1. DEFINITIONS.  
4     AS USED IN THIS SECTION, THE TERM:  
5     A. "SIPPY CUP" SHALL MEAN A VESSEL WITH A DUCK-BILLED LID, BILL-SHAPED  
6     EXTENSION OR BILL-SHAPED SPOUT PRIMARILY INTENDED FOR USE BY CHILDREN  
7     UNDER FIVE YEARS OF AGE;  
8     B. "PACKAGING" SHALL MEAN ANY TYPE OF CONTAINER, ARTICLE, OR ITEM THAT  
9     IS USED TO CONTAIN OR HOLD AN INDIVIDUAL OR GROUP OF BABY-BOTTLES AND/OR  
10    SIPPY CUPS WHEN SOLD TO CONSUMERS. PACKAGING SHALL NOT INCLUDE THE  
11    CONTAINER, ARTICLE, OR ITEM THAT IS USED TO CONTAIN OR HOLD AN INDIVID-  
12    UAL OR GROUP OF BABY-BOTTLES AND/OR SIPPY CUPS WHEN SUCH ARE SHIPPED TO  
13    THE MERCHANT OR RETAILER.  
14    2. A. EVERY MANUFACTURER OR IMPORTER OF BABY-BOTTLES AND/OR SIPPY CUPS  
15    SOLD OR DISTRIBUTED IN NEW YORK STATE SHALL CLEARLY AND CONSPICUOUSLY  
16    LABEL SUCH PRODUCT, OR ITS PACKAGING IN LIKE OR SIMILAR TERMS TO THE  
17    FOLLOWING:  
18    "WARNING: ALLOWING YOUR CHILD TO USE THIS PRODUCT FOR PROLONGED PERI-  
19    ODS SEPARATE FROM REGULAR MEALTIMES OR TO GO TO SLEEP WHILE DRINKING  
20    LIQUIDS, OTHER THAN WATER, FROM THIS BABY-BOTTLE OR SIPPY CUP (WHICHEVER  
21    IS APPLICABLE TO THE PRODUCT UPON WHICH THE LABEL WILL BE PLACED) MAY  
22    CAUSE OR CONTRIBUTE TO EARLY CHILDHOOD TOOTH DECAY."

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

LBD10556-01-1

1 B. THIS SUBDIVISION SHALL APPLY ONLY TO BABY-BOTTLES AND SIPPY CUPS  
2 MANUFACTURED OR IMPORTED ON AND AFTER THE EFFECTIVE DATE OF THIS  
3 SECTION.

4 3. WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, AN APPLICATION  
5 MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE  
6 STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL  
7 PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF  
8 NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH  
9 VIOLATION; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR  
10 JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS ARTICLE, AN  
11 INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND  
12 RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY  
13 PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH  
14 PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS  
15 PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE  
16 HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITU-  
17 TION. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS ARTI-  
18 CLE HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN  
19 FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION AND NOT MORE THAN ONE THOU-  
20 SAND DOLLARS FOR ANY SUBSEQUENT VIOLATION. IN CONNECTION WITH ANY SUCH  
21 PROPOSED APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF  
22 AND MAKE A DETERMINATION OF THE RELEVANT FACTS AND TO ISSUE SUBPOENAS IN  
23 ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

24 S 2. This act shall take effect on the one hundred eightieth day after  
25 it shall have become a law.