

8234--A

2013-2014 Regular Sessions

I N A S S E M B L Y

November 6, 2013

Introduced by M. of A. ROSENTHAL, ABINANTI, SCHIMEL, GOTTFRIED, ENGLE-BRIGHT -- read once and referred to the Committee on Consumer Affairs and Protection -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to requiring retailers to post warning signs of the tracking of customers through cell phones or other electronic devices

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  
2 390-d to read as follows:  
3 S 390-D. POSTING OF WARNING SIGNS BY RETAILERS TRACKING CUSTOMERS  
4 THROUGH CELL PHONES OR OTHER ELECTRONIC DEVICES. 1. ANY RETAILER THAT  
5 TRACKS A CUSTOMER BY USE OF THE CUSTOMER'S CELL PHONE OR ANY OTHER ELEC-  
6 TRONIC DEVICE WHILE THE CUSTOMER IS IN THEIR ESTABLISHMENT SHALL  
7 CONSPICUOUSLY POST A WARNING SIGN AT EACH ENTRANCE INDICATING THAT SUCH  
8 RETAILER PERFORMS SUCH TRACKING. SUCH WARNING SIGN SHALL ALSO PROVIDE  
9 INFORMATION FOR CUSTOMERS WHO WISH TO OPT OUT OF THE TRACKING.  
10 2. ANY RETAILER THAT VIOLATES THIS SECTION SHALL BE SUBJECT TO A CIVIL  
11 PENALTY OF NOT MORE THAN ONE HUNDRED DOLLARS FOR THE FIRST VIOLATION,  
12 NOT MORE THAN TWO HUNDRED FIFTY DOLLARS FOR THE SECOND VIOLATION, AND  
13 NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH VIOLATION THEREAFTER. THE  
14 PROVISIONS OF SUBDIVISION ONE OF THIS SECTION MAY BE ENFORCED CONCUR-  
15 RENTLY BY THE DIRECTOR OF A MUNICIPAL CONSUMER AFFAIRS OFFICE, OR BY THE  
16 TOWN ATTORNEY, CITY CORPORATION COUNSEL, OR OTHER LAWFUL DESIGNEE OF A  
17 MUNICIPALITY OR LOCAL GOVERNMENT, AND ALL MONEYS COLLECTED THEREUNDER  
18 SHALL BE RETAINED BY SUCH MUNICIPALITY OR LOCAL GOVERNMENT.  
19 3. FOR PURPOSES OF THIS SECTION "TRACKING" INCLUDES, BUT IS NOT LIMIT-  
20 ED TO, SITUATIONS WHERE RETAILERS TRACK A PERSON'S MOVEMENT THROUGHOUT

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

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1 THE ESTABLISHMENT FOR PURPOSES OF STORING OR SELLING SUCH INFORMATION  
2 PERTAINING TO SUCH PERSON. "TRACKING" DOES NOT INCLUDE THE USE OF ELEC-  
3 TRONIC DEVICES THAT ARE NOT UNIQUE TO A PARTICULAR PERSON.  
4 S 2. This act shall take effect on the ninetieth day after it shall  
5 have become a law.