

8830

I N A S S E M B L Y

February 19, 2014

Introduced by M. of A. SCHIMMINGER -- Multi-Sponsored by -- M. of A. COOK, MAGEE, RIVERA -- read once and referred to the Committee on Economic Development

AN ACT to amend the general business law, in relation to creating the "fair accountability in retail act"

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

1 Section 1. This act shall be known and may be cited as the "fair
2 accountability in retail act".

3 S 2. The general business law is amended by adding a new section 392-j
4 to read as follows:

5 S 392-J. FAIR ACCOUNTABILITY IN RETAIL. 1. NO SELLER OF ANY PRODUCT
6 SHALL BE LIABLE FOR PERSONAL INJURY, MONETARY LOSS, OR DAMAGE TO PROPER-
7 TY ARISING OUT OF AN ACCIDENT OR TRANSACTION INVOLVING SUCH PRODUCT,
8 UNLESS THE CLAIMANT PROVES ONE OR MORE OF THE FOLLOWING NON-SALE ACTIV-
9 ITIES BY THE SELLER:

- 10 (A) THE SELLER WAS THE MANUFACTURER OF THE PRODUCT;
- 11 (B) THE SELLER PARTICIPATED IN THE DESIGN OF THE PRODUCT;
- 12 (C) THE SELLER PARTICIPATED IN THE INSTALLATION OF THE PRODUCT; OR
- 13 (D) THE SELLER ALTERED, MODIFIED, OR EXPRESSLY WARRANTED THE PRODUCT
14 IN A MANNER NOT AUTHORIZED BY THE MANUFACTURER.

15 2. IF THE CLAIMANT PROVES ONE OR MORE OF THE NON-SALE ACTIVITIES
16 DESCRIBED IN SUBDIVISION ONE OF THIS SECTION AND SUCH NON-SALE ACTIVITY
17 WAS NEGLIGENT, THE SELLER'S LIABILITY SHALL BE LIMITED TO THE PERSONAL
18 INJURY, MONETARY LOSS, OR DAMAGES TO PROPERTY DIRECTLY CAUSED BY SUCH
19 NON-SALE ACTIVITY.

20 3. AS USED IN THIS SECTION:

21 (A) "MANUFACTURER" SHALL MEAN A PERSON WHO IS LAWFULLY ENGAGED IN THE
22 BUSINESS OF MANUFACTURING A PRODUCT IN INTERSTATE OR FOREIGN COMMERCE
23 DURING SUCH PERSON'S REGULAR COURSE OF TRADE OR BUSINESS.

24 (B) "PERSON" SHALL MEAN ANY INDIVIDUAL, CORPORATION, COMPANY, ASSOCI-
25 ATION, FIRM, PARTNERSHIP, SOCIETY, JOINT STOCK COMPANY, OR ANY OTHER
26 ENTITY, INCLUDING ANY GOVERNMENTAL ENTITY.

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

1 (C) "SELLER" SHALL MEAN A PERSON WHO IS LAWFULLY ENGAGED IN THE BUSI-
2 NESS OF MARKETING, DISTRIBUTING, ADVERTISING, OR SELLING A PRODUCT IN
3 INTERSTATE OR FOREIGN COMMERCE DURING SUCH PERSON'S REGULAR COURSE OF
4 TRADE OR BUSINESS.

5 S 3. This act shall take effect immediately.