S T A T E O F N E W Y O R K

2997

2013-2014 Regular Sessions

I N S E N A T E

January 28, 2013

Introduced by Sen. ADAMS -- 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 posting the cost of products

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

Section 1. The general business law is amended by adding a new section 349-e to read as follows:

S 349-E. POSTING OF THE COST OF PRODUCTS. 1. EVERY ESTABLISHMENT THAT REGULARLY AND CUSTOMARILY OFFERS FOOD PRODUCTS FOR SALE IN A BONA FIDE MANNER FOR THE CONSUMPTION OFF THE PREMISES SHALL ENSURE THAT EACH SUCH PRODUCT IS CLEARLY MARKED WITH THE COST OF SUCH PRODUCT, EITHER ON THE SHELF DIRECTLY ABOVE OR BELOW THE PRODUCT OR ON THE PRODUCT ITSELF.

2. ANY ESTABLISHMENT THAT CHARGES A CONSUMER AN AMOUNT IN EXCESS OF THE PRICE MARKED ON THE PRODUCT SHALL BE IN VIOLATION OF THIS SECTION.

3. ANY ESTABLISHMENT THAT FAILS TO HAVE THE PRICE OF THE PRODUCT CLEARLY MARKED IN ACCORDANCE WITH SUBDIVISION ONE OF THIS SECTION SHALL BE IN VIOLATION OF THIS SECTION.

4. ANY CONSUMER WHO IS A VICTIM OF A VIOLATION OF THIS SECTION PURSUANT TO SUBDIVISION TWO OF THIS SECTION SHALL BE ENTITLED TO RECEIVE, FROM THE ESTABLISHMENT, THE PRODUCT FREE OF CHARGE PLUS AN AMOUNT EQUAL TO TEN TIMES THE AMOUNT ACTUALLY CHARGED FOR THE PRODUCT.

5. ANY ESTABLISHMENT WHO VIOLATES THIS SECTION PURSUANT TO SUBDIVISION THREE OF THIS SECTION SHALL BE SUBJECT TO A MINIMUM FINE OF FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION, A MINIMUM FINE OF ONE THOUSAND DOLLARS FOR A SECOND VIOLATION, AND A MINIMUM FINE OF TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH SUBSEQUENT VIOLATION.

6. EACH DAY SHALL CONSTITUTE A SEPARATE AND DISTINCT VIOLATION.

7. THIS SECTION SHALL NOT APPLY TO ANY ESTABLISHMENT WHEN AN EMPLOYEE MAKES A KEYSTROKE ERROR WHEN ENTERING THE PRICE TO BE CHARGED TO THE

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

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CONSUMER AND THEN IMMEDIATELY CORRECTS THE ERROR BEFORE SEEKING PAYMENT FROM THE CONSUMER.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.