

1583

2015-2016 Regular Sessions

I N A S S E M B L Y

January 12, 2015

Introduced by M. of A. ROSENTHAL, SCHIMEL, GOTTFRIED, ENGLEBRIGHT,
ABINANTI -- read once and referred to the Committee on Consumer
Affairs and Protection

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 ASSEM-
BLY, 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
21 THE ESTABLISHMENT FOR PURPOSES OF STORING OR SELLING SUCH INFORMATION
22 PERTAINING TO SUCH PERSON. "TRACKING" DOES NOT INCLUDE THE USE OF ELEC-
23 TRONIC DEVICES THAT ARE NOT UNIQUE TO A PARTICULAR PERSON.
24 S 2. This act shall take effect on the ninetieth day after it shall
25 have become a law.

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

LBD04220-01-5