

4004

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 28, 2015

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Introduced by M. of A. TITUS, BENEDETTO, COOK, COLTON, RIVERA, CAHILL --  
Multi-Sponsored by -- M. of A. GOTTFRIED, GUNTHER, JAFFEE, JOHNS,  
LOPEZ, O'DONNELL, ROBINSON, ROSENTHAL, SCARBOROUGH, WRIGHT, ZEBROWSKI  
-- read once and referred to the Committee on Consumer Affairs and  
Protection

AN ACT to amend the general business law, in relation to cellular tele-  
phone applications

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     349-f to read as follows:  
3     S 349-F. CELLULAR APPLICATIONS; PROTECTION. 1. AS USED IN THIS  
4     SECTION:  
5     (A) "CELLULAR TELEPHONE SERVICE SUPPLIER" MEANS A BUSINESS ENTITY  
6     WHICH PROVIDES RETAIL CELLULAR TELEPHONE SERVICE WITHIN NEW YORK STATE.  
7     (B) "CELLULAR TELEPHONE" MEANS A CELLULAR MOBILE RADIO TELEPHONE OR  
8     OTHER RADIO TELEPHONE NOT REQUIRING AN ACCESS LINE FOR SERVICE.  
9     (C) "CELLULAR TELEPHONE SUBSCRIBER" MEANS ANY PERSON ENROLLED IN A  
10    CELLULAR TELEPHONE SERVICE SUBSCRIBER PLAN WHETHER OR NOT SUCH SUBSCRIB-  
11    ER'S CELLULAR TELEPHONE SERVICES ARE ACTIVE OR SUSPENDED.  
12    2. CELLULAR TELEPHONE SUBSCRIBERS WHO PURCHASE CELLULAR APPLICATIONS,  
13    GAMES AND/OR RINGTONES FROM A CELLULAR TELEPHONE SERVICE SUPPLIER SHALL  
14    BE ALLOWED TO TRANSFER SUCH PREVIOUSLY PURCHASED PRODUCTS TO CELLULAR  
15    TELEPHONES WHICH HAVE BEEN UPGRADED AND/OR RETURNED TO THE CELLULAR  
16    TELEPHONE SERVICE PROVIDER DUE TO A DEFECT OR FOR ANY OTHER REASON.  
17    WHERE THE CELLULAR TELEPHONE IS COVERED UNDER A POLICY FOR LOSS AND/OR  
18    THEFT THE CELLULAR TELEPHONE SUBSCRIBER SHALL BE ENTITLED TO HAVE ALL  
19    PREVIOUSLY PURCHASED APPLICATIONS, GAMES AND/OR RINGTONES INSTALLED IN  
20    THEIR NEW CELLULAR TELEPHONE OR SHALL HAVE THE OPTION OF RECEIVING A  
21    CREDIT TO THEIR ACCOUNT FOR THE PURCHASE AMOUNT.

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

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1        3. THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION SHALL ONLY BE  
2 APPLICABLE TO CELLULAR TELEPHONE SUBSCRIBERS WHO REMAIN WITH THE SAME  
3 CELLULAR TELEPHONE SERVICE PROVIDER AND SHALL NOT APPLY TO CELLULAR  
4 TELEPHONE SUBSCRIBERS WHO SWITCH CELLULAR TELEPHONE SERVICE PROVIDERS,  
5 UNLESS A MERGER OR ACQUISITION HAS TAKEN PLACE WITH THE CELLULAR TELE-  
6 PHONE SERVICE PROVIDER WITH WHOM THE CELLULAR TELEPHONE SUBSCRIBER HAS  
7 SWITCHED TO.

8        S 2. This act shall take effect on the first of January next succeed-  
9 ing the date on which it shall have become a law.