

2015-2016 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2015

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Introduced by M. of A. ROSENTHAL, ROBINSON, PAULIN, CAHILL, DINOWITZ,  
MARKEY, CLARK, JAFFEE -- Multi-Sponsored by -- M. of A. COLTON, GLICK,  
PERRY -- read once and referred to the Committee on Consumer Affairs  
and Protection

AN ACT to amend the general business law, in relation to prohibiting the  
sale of expired goods

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. PROHIBITIONS AGAINST THE SALE OF EXPIRED GOODS. 1. FOR THE  
4     PURPOSE OF THIS SECTION:  
5     (A) "RETAIL" OR "RETAIL SALE" SHALL MEAN A SALE TO A CONSUMER OR TO  
6     ANY PERSON FOR ANY PURPOSE OTHER THAN FOR RESALE.  
7     (B) "SELL" OR "OFFER TO SELL" SHALL MEAN THE ACT OF SELLING, DISPLAY-  
8     ING OR OFFERING GOODS FOR RETAIL SALE.  
9     (C) "MERCHANT" SHALL MEAN A PERSON WHO DEALS IN GOODS OF THE KIND OR  
10    OTHERWISE BY HIS OR HER OCCUPATION HOLDS HIMSELF OR HERSELF OUT AS  
11    HAVING KNOWLEDGE OR SKILL PARTICULAR TO THE PRACTICES OR GOODS INVOLVED  
12    IN THE TRANSACTION OR TO WHOM SUCH KNOWLEDGE OR SKILL MAY BE ATTRIBUTED  
13    BY HIS OR HER EMPLOYMENT OF AN AGENT OR BROKER OR OTHER INTERMEDIARY WHO  
14    BY HIS OR HER OCCUPATION HOLDS HIMSELF OR HERSELF OUT AS HAVING SUCH  
15    KNOWLEDGE OR SKILL.  
16    (D) "EXPIRATION DATE" SHALL MEAN THE DATE LISTED ON THE ITEM AFTER  
17    WHICH THE GOODS DECLINE IN QUALITY, FRESHNESS, EFFICACY OR UTILITY.  
18    2. (A) NO MERCHANT SHALL OFFER GOODS FOR RETAIL SALE AFTER THEIR EXPI-  
19    RATION DATE, UNLESS SUCH GOODS ARE SEGREGATED, CLEARLY AND CONSPICUOUSLY  
20    MARKED, AND OFFERED AT A REDUCTION FROM THE CUSTOMARY SELLING PRICE AT  
21    WHICH IDENTICAL UNEXPIRED GOODS ARE OFFERED FOR SALE.

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

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1 (B) OFFERING GOODS FOR SALE AFTER THEIR EXPIRATION DATE SHALL BE  
2 CONSIDERED A VIOLATION OF THE WARRANTY OF MERCHANTABILITY AND A MATE-  
3 RIALY DECEPTIVE ACT, IN VIOLATION OF SECTION THREE HUNDRED FORTY-NINE  
4 OF THIS ARTICLE.

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