

5355--A

2015-2016 Regular Sessions

I N   S E N A T E

May 13, 2015

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Introduced by Sen. MARCHIONE -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to the sale of governmental signage or other metal property

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

1     Section 1. Section 60 of the general business law is amended by adding  
2     two new subdivisions 4 and 5 to read as follows:  
3     4. "GOVERNMENT ISSUED IDENTIFICATION" MEANS ANY CURRENT AND VALID  
4     OFFICIAL FORM OF IDENTIFICATION ISSUED BY THE GOVERNMENT OF THE UNITED  
5     STATES OF AMERICA, A STATE, TERRITORY, PROTECTORATE, OR DEPENDENCY OF  
6     THE UNITED STATES OF AMERICA, A COUNTY, MUNICIPALITY OR SUBDIVISION  
7     THEREOF, ANY PUBLIC AGENCY OR DEPARTMENT THEREOF, OR ANY PUBLIC EMPLOY-  
8     ER, WHICH REQUIRES AND BEARS THE SIGNATURE OF THE PERSON TO WHOM IT IS  
9     ISSUED; PROVIDED, HOWEVER, THAT A SOCIAL SECURITY ACCOUNT NUMBER CARD  
10    SHALL NOT BE CONSIDERED TO BE GOVERNMENT ISSUED IDENTIFICATION FOR THE  
11    PURPOSES OF THIS ARTICLE.  
12    5. "GOVERNMENT ENTITY SIGNS" MEANS TRAFFIC CONTROL DEVICES OR SIGNS  
13    USED WITHIN THE STATE ON STREETS, HIGHWAYS, BIKEWAYS, AND PRIVATE ROADS  
14    OPEN TO PUBLIC TRAVEL AS DESCRIBED IN THE NATIONAL MANUAL ON UNIFORM  
15    TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS (MUTCD) AND/OR 17 NYCRR  
16    CHAPTER V.  
17    S 2. The general business law is amended by adding a new section 63-b  
18    to read as follows:  
19    S 63-B. PROHIBITION ON SALE OF GOVERNMENT ENTITY SIGNS OR HISTORICAL  
20    MARKERS. 1. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO  
21    THE CONTRARY, IT SHALL BE UNLAWFUL TO SELL, OFFER FOR SALE, OR PURCHASE  
22    AS SCRAP, ANY OF THE FOLLOWING ITEMS UNLESS SUCH ITEMS ARE OFFERED FOR

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

LBD10845-04-5

1 SALE, SOLD OR PURCHASED AS SCRAP BY A DULY AUTHORIZED EMPLOYEE OR AGENT  
2 OF A GOVERNMENTAL ENTITY ACTING IN HIS OR HER OFFICIAL CAPACITY:

- 3 (A) STREET SIGNS;
- 4 (B) HISTORICAL MARKERS; OR
- 5 (C) GOVERNMENT ENTITY SIGNS.

6 2. A DULY AUTHORIZED EMPLOYEE OR AGENT OF A GOVERNMENTAL ENTITY SELL-  
7 ING, OFFERING FOR SALE OR PURCHASING AS SCRAP ANY OF THE ITEMS DESCRIBED  
8 IN SUBDIVISION ONE OF THIS SECTION SHALL PROVIDE WRITTEN EVIDENCE OF  
9 AUTHORIZATION TO DO SO PRIOR TO ENTERING INTO ANY TRANSACTION. EVIDENCE  
10 OF AUTHORIZATION SHALL BE IN THE FORM OF A STATEMENT WHICH COMPLIES WITH  
11 THE FOLLOWING REQUIREMENTS:

12 (A) THE STATEMENT SHALL BE WITNESSED BY THE CLERK OR SECRETARY OF THE  
13 MUNICIPALITY OR GOVERNMENT ENTITY AUTHORIZING THE SALE OR PURCHASE AND  
14 SHALL HAVE THE RAISED SEAL OF THE GOVERNMENT ENTITY AFFIXED TO SUCH  
15 AUTHORIZATION;

16 (B) THE STATEMENT SHALL INCLUDE AN ITEMIZED LIST OF THE MATERIALS TO  
17 BE SOLD, OFFERED FOR SALE OR PURCHASED; AND

18 (C) THE STATEMENT SHALL SPECIFY THE NAME OF THE AUTHORIZED EMPLOYEE OR  
19 AGENT OF THE GOVERNMENT ENTITY.

20 3. ANY JUNK DEALER PURCHASING ANY ITEM SPECIFIED IN SUBDIVISION ONE OF  
21 THIS SECTION SHALL, AT THE TIME OF THE TRANSACTION:

22 (A) MAKE A COPY OF THE SELLER'S GOVERNMENT ISSUED IDENTIFICATION;

23 (B) MAKE A COPY OF THE SELLER'S PROOF OF AUTHORIZATION TO SELL SUCH  
24 ITEMS;

25 (C) EXECUTE A STATEMENT WHICH SHALL INCLUDE THE DRIVER'S LICENSE  
26 NUMBER OR INFORMATION FROM A GOVERNMENT ISSUED IDENTIFICATION CARD, IF  
27 ANY, OF SUCH PERSON AND THE LICENSE PLATE AND/OR VEHICLE IDENTIFICATION  
28 NUMBER OF THE VEHICLE OR VEHICLES USED TO TRANSPORT THE ITEMS TO BE  
29 SOLD; AND

30 (D) ENSURE THAT THE SELLER SIGNS THE STATEMENT REFERRED TO IN PARA-  
31 GRAPH (C) OF THIS SUBDIVISION.

32 4. THE JUNK DEALER SHALL RETAIN A COPY OF THE STATEMENT DESCRIBED IN  
33 SUBDIVISION THREE OF THIS SECTION FOR TWO YEARS FROM THE DATE OF  
34 PURCHASE.

35 5. IT SHALL BE UNLAWFUL FOR ANY SELLER TO REFUSE TO FURNISH INFORMA-  
36 TION OR TO FURNISH INCORRECT OR INCOMPLETE INFORMATION AS REQUIRED TO  
37 PROPERLY COMPLETE THE STATEMENT DESCRIBED IN SUBDIVISION THREE OF THIS  
38 SECTION.

39 6. ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE  
40 GUILTY OF A MISDEMEANOR AND SHALL BE SUBJECT TO A TERM OF IMPRISONMENT  
41 NOT TO EXCEED ONE YEAR OR BE ORDERED TO PAY A FINE NOT EXCEEDING ONE  
42 THOUSAND DOLLARS OR BOTH SUCH FINE AND IMPRISONMENT. IN ADDITION TO  
43 OTHER PENALTIES IMPOSED, ANY JUNK DEALER WHO VIOLATES THE PROVISIONS OF  
44 THIS SECTION SHALL FORFEIT HIS OR HER LICENSE TO DO BUSINESS.

45 7. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO CITIES OF THE  
46 FIRST CLASS.

47 S 3. Section 64 of the general business law is amended to read as  
48 follows:

49 S 64. Penalty. [Each] UNLESS OTHERWISE SPECIFIED IN THIS ARTICLE, A  
50 violation of ANY PROVISION OF this article, either by the junk dealer,  
51 OR BY the agent or servant thereof, and each false statement made in or  
52 on any statement or tag [above mentioned] DESCRIBED IN THIS ARTICLE  
53 shall be a misdemeanor and the person convicted shall, in addition to  
54 other penalties imposed, forfeit his OR HER license to do business. [But  
55 nothing herein contained shall] THE PROVISIONS OF THIS SECTION SHALL NOT  
56 apply to cities of the first class.

1 S 4. Section 69-e of the general business law is amended by adding two  
2 new subdivisions 3 and 4 to read as follows:

3 3. "GOVERNMENT ISSUED IDENTIFICATION" MEANS ANY CURRENT AND VALID  
4 OFFICIAL FORM OF IDENTIFICATION ISSUED BY THE GOVERNMENT OF THE UNITED  
5 STATES OF AMERICA, A STATE, TERRITORY, PROTECTORATE, OR DEPENDENCY OF  
6 THE UNITED STATES OF AMERICA, A COUNTY, MUNICIPALITY OR SUBDIVISION  
7 THEREOF, ANY PUBLIC AGENCY OR DEPARTMENT THEREOF, OR ANY PUBLIC EMPLOY-  
8 ER, WHICH REQUIRES AND BEARS THE SIGNATURE OF THE PERSON TO WHOM IT IS  
9 ISSUED; PROVIDED, HOWEVER, THAT A SOCIAL SECURITY ACCOUNT NUMBER CARD  
10 SHALL NOT BE CONSIDERED TO BE GOVERNMENT ISSUED IDENTIFICATION FOR THE  
11 PURPOSES OF THIS ARTICLE.

12 4. "GOVERNMENT ENTITY SIGNS" MEANS TRAFFIC CONTROL DEVICES OR SIGNS  
13 USED WITHIN THE STATE ON STREETS, HIGHWAYS, BIKEWAYS, AND PRIVATE ROADS  
14 OPEN TO PUBLIC TRAVEL AS DESCRIBED IN THE NATIONAL MANUAL ON UNIFORM  
15 TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS (MUTCD) AND/OR 17 NYCRR  
16 CHAPTER V.

17 S 5. The general business law is amended by adding a new section 69-i  
18 to read as follows:

19 S 69-I. PROHIBITION ON SALE OF GOVERNMENT ENTITY SIGNS OR HISTORICAL  
20 MARKERS. 1. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO  
21 THE CONTRARY, IT SHALL BE UNLAWFUL FOR ANY SCRAP PROCESSOR TO SELL,  
22 OFFER FOR SALE, OR PURCHASE AS SCRAP, ANY OF THE FOLLOWING ITEMS UNLESS  
23 SUCH ITEMS ARE OFFERED FOR SALE, SOLD OR PURCHASED AS SCRAP BY A DULY  
24 AUTHORIZED EMPLOYEE OR AGENT OF A GOVERNMENTAL ENTITY ACTING IN HIS OR  
25 HER OFFICIAL CAPACITY:

- 26 (A) STREET SIGNS;
- 27 (B) HISTORICAL MARKERS; OR
- 28 (C) GOVERNMENT ENTITY SIGNS.

29 2. A DULY AUTHORIZED EMPLOYEE OR AGENT OF A GOVERNMENTAL ENTITY SELL-  
30 ING, OFFERING FOR SALE OR PURCHASING AS SCRAP ANY OF THE ITEMS DESCRIBED  
31 IN SUBDIVISION ONE OF THIS SECTION SHALL PROVIDE WRITTEN EVIDENCE OF  
32 AUTHORIZATION TO DO SO PRIOR TO ENTERING INTO ANY TRANSACTION. EVIDENCE  
33 OF AUTHORIZATION SHALL BE IN THE FORM OF A STATEMENT WHICH COMPLIES WITH  
34 THE FOLLOWING REQUIREMENTS:

35 (A) THE STATEMENT SHALL BE WITNESSED BY THE CLERK OR SECRETARY OF THE  
36 MUNICIPALITY OR GOVERNMENT ENTITY AUTHORIZING THE SALE OR PURCHASE AND  
37 SHALL HAVE THE RAISED SEAL OF THE GOVERNMENT ENTITY AFFIXED TO SUCH  
38 AUTHORIZATION;

39 (B) THE STATEMENT SHALL INCLUDE AN ITEMIZED LIST OF THE MATERIALS TO  
40 BE SOLD, OFFERED FOR SALE OR PURCHASED; AND

41 (C) THE STATEMENT SHALL SPECIFY THE NAME OF THE AUTHORIZED EMPLOYEE OR  
42 AGENT OF THE GOVERNMENT ENTITY.

43 3. ANY SCRAP PROCESSOR PURCHASING ANY ITEM SPECIFIED IN SUBDIVISION  
44 ONE OF THIS SECTION SHALL, AT THE TIME OF THE TRANSACTION:

45 (A) MAKE A COPY OF THE SELLER'S GOVERNMENT ISSUED IDENTIFICATION;

46 (B) MAKE A COPY OF THE SELLER'S PROOF OF AUTHORIZATION TO SELL SUCH  
47 ITEMS;

48 (C) EXECUTE A STATEMENT WHICH SHALL INCLUDE THE DRIVER'S LICENSE  
49 NUMBER OR INFORMATION FROM A GOVERNMENT ISSUED IDENTIFICATION CARD, IF  
50 ANY, OF SUCH PERSON AND THE LICENSE PLATE AND/OR VEHICLE IDENTIFICATION  
51 NUMBER OF THE VEHICLE OR VEHICLES USED TO TRANSPORT THE ITEMS TO BE  
52 SOLD; AND

53 (D) ENSURE THAT THE SELLER SIGNS THE STATEMENT REFERRED TO IN PARA-  
54 GRAPH (C) OF THIS SUBDIVISION.

1 4. THE SCRAP PROCESSOR SHALL RETAIN A COPY OF THE STATEMENT DESCRIBED  
2 IN SUBDIVISION THREE OF THIS SECTION FOR TWO YEARS FROM THE DATE OF  
3 PURCHASE.

4 5. IT SHALL BE UNLAWFUL FOR ANY SELLER TO REFUSE TO FURNISH INFORMA-  
5 TION OR TO FURNISH INCORRECT OR INCOMPLETE INFORMATION AS REQUIRED TO  
6 PROPERLY COMPLETE THE STATEMENT DESCRIBED IN SUBDIVISION THREE OF THIS  
7 SECTION.

8 6. ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE  
9 GUILTY OF A MISDEMEANOR AND SHALL BE SUBJECT TO A TERM OF IMPRISONMENT  
10 NOT TO EXCEED ONE YEAR OR BE ORDERED TO PAY A FINE NOT EXCEEDING ONE  
11 THOUSAND DOLLARS OR BOTH SUCH FINE AND IMPRISONMENT. IN ADDITION TO  
12 OTHER PENALTIES IMPOSED, ANY SCRAP PROCESSOR WHO VIOLATES THE PROVISIONS  
13 OF THIS SECTION SHALL FORFEIT HIS OR HER LICENSE TO DO BUSINESS.

14 7. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO CITIES OF THE  
15 FIRST CLASS.

16 S 6. This act shall take effect on the thirtieth day after it shall  
17 have become a law.