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

5355--A

2015-2016 Regular Sessions

I N S E N A T E

May 13, 2015

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:

Section 1. Section 60 of the general business law is amended by adding two new subdivisions 4 and 5 to read as follows:

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

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

S 2. The general business law is amended by adding a new section 63-b to read as follows:

S 63-B. PROHIBITION ON SALE OF GOVERNMENT ENTITY SIGNS OR HISTORICAL MARKERS. 1. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IT SHALL BE UNLAWFUL TO SELL, OFFER FOR SALE, OR PURCHASE 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

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

(A) STREET SIGNS;

(B) HISTORICAL MARKERS; OR

(C) GOVERNMENT ENTITY SIGNS.

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

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

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

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

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

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

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

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

(D) ENSURE THAT THE SELLER SIGNS THE STATEMENT REFERRED TO IN PARAGRAPH (C) OF THIS SUBDIVISION.

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

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

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

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

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

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

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

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

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

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

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

(A) STREET SIGNS;

(B) HISTORICAL MARKERS; OR

(C) GOVERNMENT ENTITY SIGNS.

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

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

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

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

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

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

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

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

(D) ENSURE THAT THE SELLER SIGNS THE STATEMENT REFERRED TO IN PARAGRAPH (C) OF THIS SUBDIVISION.

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

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

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

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

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