

STATE OF NEW YORK

4731

2017-2018 Regular Sessions

IN SENATE

February 24, 2017

Introduced by Sen. LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the general business law, in relation to missing or non-functioning airbags in certain vehicles

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "Anthony
2 Amoros Law".

3 § 2. Section 417-b of the vehicle and traffic law, as added by chapter
4 361 of the laws of 1988, is amended to read as follows:

5 § 417-b. Mandatory disclosures by second-hand dealers prior to resale.
6 1. Upon the sale or transfer of title by any dealer of any second-hand
7 motor vehicle which was manufactured or assembled on or after July
8 first, nineteen hundred ninety-one and designed as a nineteen hundred
9 ninety-two or later model and which the dealer knows or has reason to
10 know that such vehicle is not equipped with a tamper-resistant odometer
11 as provided in subdivision forty-six of section three hundred seventy-
12 five of this chapter, the dealer shall execute and deliver to the buyer
13 an instrument in writing in a form prescribed by the commissioner
14 setting forth the following information in ten point, all capital type:
15 "IMPORTANT: THIS VEHICLE IS NOT EQUIPPED WITH A TAMPER-RESISTANT ODOME-
16 TER." Such notice that a vehicle is not equipped with a tamper-resistant
17 odometer shall also be conspicuously printed on the motor vehicle's
18 certificate of title.

19 2. Upon the sale or transfer of title by any dealer of any second-hand
20 motor vehicle which was manufactured on or after September first, nine-
21 teen hundred ninety-seven, and which the dealer knows or has reason to
22 know that such vehicle is missing or has a non-functioning inflatable
23 restraint system as defined in section one hundred nineteen-b of this
24 chapter, the dealer shall execute and deliver to the buyer an instrument

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

LBD02445-01-7

1 in writing in a form prescribed by the commissioner setting forth the
2 following information in ten point, all capital type: "IMPORTANT: THIS
3 VEHICLE IS MISSING AN AIRBAG OR CONTAINS A NON-FUNCTIONING AIRBAG". Such
4 notice that a vehicle is either missing an inflatable restraint system
5 or contains a non-functioning inflatable restraint system shall also be
6 conspicuously printed on the motor vehicle's certificate of title.

7 3. The failure of a dealer to deliver to the buyer the instrument
8 required by this section or the delivery of an instrument containing
9 false or misleading information shall constitute a violation of this
10 section.

11 ~~[3-]~~ 4. A consumer injured by a violation of this section may bring an
12 action to recover damages. Judgment may be entered for three times the
13 actual damages suffered by a consumer or one hundred dollars, whichever
14 is greater. A court also may award reasonable attorneys' fees to a
15 prevailing plaintiff buyer.

16 ~~[4-]~~ 5. a. Upon any violation of this section, an application may be
17 made by the attorney general in the name of the people of the state of
18 New York to a court or justice having jurisdiction to issue an injunc-
19 tion, and upon notice to the defendant of not less than five days, to
20 enjoin and restrain the continuance of the violation. If it shall appear
21 to the satisfaction of the court or justice that the defendant has
22 violated this section, an injunction may be issued by the court or
23 justice, enjoining and restraining any further violation, without
24 requiring proof that any person has, in fact, been injured or damaged
25 thereby. In any such proceeding, the court may make allowances to the
26 attorney general as provided in paragraph six of subdivision (a) of
27 section eighty-three hundred three of the civil practice law and rules,
28 and direct restitution.

29 b. Whenever the court shall determine that a violation of this section
30 has occurred, it may impose a civil penalty of not more than one thou-
31 sand dollars for each violation. In connection with an application made
32 under this subdivision, the attorney general is authorized to take proof
33 and to make a determination of the relevant facts and to issue subpoenas
34 in accordance with the civil practice law and rules.

35 § 3. Subdivision 3 of section 23 of the general business law is
36 amended by adding a new paragraph f to read as follows:

37 f. No motor vehicle, which has been manufactured on or after September
38 first, nineteen hundred ninety-seven, shall be sold by an automobile
39 auctioneer unless he or she has disclosed to the buyer whether the vehi-
40 cle, to the best of the automobile auctioneer's knowledge, is missing an
41 inflatable restraint system or contains a non-functioning inflatable
42 restraint system. If the vehicle is missing an inflatable restraint
43 system or contains a non-functioning inflatable restraint system the
44 disclosure of the status of the vehicle's inflatable restraint system
45 shall be made by the auctioneer (i) in a written disclosure made in not
46 less than ten-point bold face type and appearing on the front of the
47 sales contract, receipt, invoice, or other document used in connection
48 with the sale of the vehicle that shall set forth whether the vehicle is
49 missing an inflatable restraint system or contains a non-functioning
50 inflatable restraint system; and (ii) if by affixing a conspicuous sign
51 to the windshield of each vehicle offered for sale, sold or made avail-
52 able for inspection prior to auction that shall disclose that the vehi-
53 cle either is missing an inflatable restraint system or contains a non-
54 functioning inflatable restraint system.

55 § 4. This act shall take effect immediately.