

# STATE OF NEW YORK

4899

2017-2018 Regular Sessions

## IN SENATE

March 3, 2017

Introduced by Sens. DIAZ, HAMILTON -- read twice and ordered printed,  
and when printed to be committed to the Committee on Consumer  
Protection

AN ACT to amend the general business law, in relation to notice require-  
ments in the manufacture, assembling and sale of roller skates and  
skate boards

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  
2 391-u to read as follows:

3 § 391-u. Sale of roller skates and skate boards; notification. 1. As  
4 used in this section, the following terms shall have the following mean-  
5 ings:

6 (a) "Roller skate" shall have the same meaning as such term is defined  
7 by section one hundred forty-b of the vehicle and traffic law.

8 (b) "Skate board" shall have the same meaning as such term is defined  
9 by section one hundred forty-c of the vehicle and traffic law.

10 (c) "Warning instruction" shall mean a notice in substantially the  
11 following form printed in clear and conspicuous type: "WARNING! REDUCE  
12 THE RISK OF SERIOUS INJURY AND ONLY USE (insert 'THESE SKATES' or 'THIS  
13 SKATE BOARD', as appropriate) WHILE WEARING FULL PROTECTIVE GEAR -  
14 HELMET, WRIST GUARDS, ELBOW PADS AND KNEE PADS."

15 2. (a) No person, firm, corporation, or other legal entity which  
16 offers to sell, or distribute in this state such roller skates shall do  
17 so unless: (i) a warning instruction contained on a label, hangtag,  
18 shield or plate clearly visible to the consumer is placed on the outside  
19 of the box in which such pair of roller skates is sold or offered for  
20 sale at retail; and (ii) each such pair of roller skates which contains  
21 a user's guide or buyer's instruction manual also contains a warning  
22 instruction within or on such guide or manual.

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

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1 (b) No person, firm, corporation, or other legal entity shall sell,  
2 offer to sell, or distribute in this state such skate boards unless: (i)  
3 a warning instruction contained on a label, hangtag, shield or plate  
4 clearly visible to the consumer is placed on the outside of the box in  
5 which such skate board is sold or offered for sale at retail; and (ii)  
6 each skate board which contains a user's guide or buyer's instruction  
7 manual also contains a warning instruction within or on such guide or  
8 manual.

9 (c) No person, firm, corporation or other legal entity which is regu-  
10 larly engaged in the business of selling, offering for sale, or distrib-  
11 uting roller skates at retail for consumer use shall sell, offer to  
12 sell, or distribute in this state such roller skates unless such roller  
13 skates conform to the manufacturing requirements set forth in paragraph  
14 (a) of this subdivision.

15 (d) No person, firm, corporation or other legal entity which is regu-  
16 larly engaged in the business of selling, offering for sale, or distrib-  
17 uting skate boards at retail for consumer use shall sell, offer to sell,  
18 or distribute in this state such skate boards unless such skate boards  
19 conform to the manufacturing requirements set forth in paragraph (b) of  
20 this subdivision.

21 3. Whenever it shall appear that there has been a violation of this  
22 section, an application may be made by the attorney general in the name  
23 of the people of the state of New York to a court or justice having  
24 jurisdiction by a special proceeding to issue an injunction, and upon  
25 notice to the defendant of not less than five days, to enjoin and  
26 restrain the continuance of such violation; and if it shall appear to  
27 the satisfaction of the court or justice that the defendant has, in  
28 fact, violated this article, an injunction may be issued by such court  
29 or justice, enjoining and restraining any further violation, without  
30 requiring proof that any person has, in fact, been injured or damaged  
31 thereby. In any such proceeding, the court may make allowances to the  
32 attorney general as provided in paragraph six of subdivision (a) of  
33 section eighty-three hundred three of the civil practice law and rules,  
34 and direct restitution. Whenever the court shall determine that a  
35 violation of this article has occurred, the court may impose a civil  
36 penalty of not more than five hundred dollars for such violation. In  
37 connection with any such proposed application, the attorney general is  
38 authorized to take proof and make a determination of the relevant facts  
39 and to issue subpoenas in accordance with the civil practice law and  
40 rules.

41 4. No person, firm, corporation or other legal entity which is regu-  
42 larly engaged in the business of selling, or offering for sale roller  
43 skates or skate boards shall be deemed to have violated the provisions  
44 of this subdivision, if such person, firm, corporation or other legal  
45 entity shows by a preponderance of evidence that the violation was not  
46 intentional and resulted from a bona fide error made notwithstanding the  
47 maintenance of procedures reasonably adopted to avoid any such error.

48 5. This section shall not apply to the sale of roller skates or skate  
49 boards sold or offered for sale by consumers for consumer use.

50 § 2. This act shall take effect one year after it shall have become a  
51 law.