

STATE OF NEW YORK

5272

2017-2018 Regular Sessions

IN ASSEMBLY

February 7, 2017

Introduced by M. of A. ZEBROWSKI, HARRIS, PAULIN, JENNE, MOYA, GALEF, WILLIAMS, GUNTHER, COOK, DINOWITZ, MOSLEY, ORTIZ, JAFFEE, BUCHWALD, WALSH, RAIA, FINCH, CASTORINA, MURRAY, MONTESANO, GJONAJ -- Multi-Sponsored by -- M. of A. BRAUNSTEIN, CAHILL, ENGLEBRIGHT, GIGLIO, HEVESI, JEAN-PIERRE, McDONOUGH, PALMESANO, SEPULVEDA, SIMON -- read once and referred 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

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

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

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

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

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

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

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

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

§ 4. This act shall take effect immediately.