

# STATE OF NEW YORK

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4731

2017-2018 Regular Sessions

## IN SENATE

February 24, 2017

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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.

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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.