

STATE OF NEW YORK

9193--B

IN ASSEMBLY

February 9, 2022

Introduced by M. of A. ROZIC -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to fraud in connection with an abnormal disruption of the market

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

1 Section 1. Section 350-d of the general business law, as amended by
2 chapter 208 of the laws of 2007, is amended to read as follows:

3 § 350-d. Civil penalty. (a) Any person, firm, corporation or associ-
4 ation or agent or employee thereof who engages in any of the acts or
5 practices stated in this article to be unlawful shall be liable to a
6 civil penalty of not more than five thousand dollars for each violation,
7 which shall accrue to the state of New York and may be recovered in a
8 civil action brought by the attorney general. In any such action it
9 shall be a complete defense that the advertisement is subject to and
10 complies with the rules and regulations of, and the statutes adminis-
11 tered by the Federal Trade Commission or any official department, divi-
12 sion, commission or agency of the state of New York.

13 (b) Notwithstanding subdivision (a) of this section, any firm, corpo-
14 ration or association or agent or employee thereof who engages in any of
15 the acts or practices stated in section three hundred forty-nine of this
16 article to be unlawful in connection with or during an abnormal
17 disruption of the market shall be liable to a civil penalty of not more
18 than fifteen thousand dollars for each violation or three times the
19 actual restitution needed, whichever is greater, which shall accrue to
20 the state of New York and may be recovered in a civil action brought by
21 the attorney general. In any such action it shall be a complete defense
22 that the advertisement is subject to and complies with the rules and
23 regulations of, and the statutes administered by the Federal Trade
24 Commission or any official department, division, commission or agency of
25 the state of New York. For the purposes of this subdivision, "abnormal

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

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1 disruption of the market" shall mean any change in the market, whether
2 actual or imminently threatened, resulting from stress of weather,
3 convulsion of nature, failure or shortage of electric power or other
4 source of energy, strike, civil disorder, war, military action, national
5 or local emergency, or other cause of an abnormal disruption of the
6 market which results in the declaration of a state of emergency by the
7 governor.

8 § 2. This act shall take effect on the thirtieth day after it shall
9 have become a law. Effective immediately, the attorney general may make
10 regulations and take other actions reasonably necessary to implement
11 this act on such effective date.