STATE OF NEW YORK

4954--C

Cal. No. 627

2021-2022 Regular Sessions

IN SENATE

February 19, 2021

Introduced by Sens. MYRIE, BROUK, JACKSON, KRUEGER, RAMOS, REICHLIN-MELNICK, SALAZAR, SKOUFIS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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

§ 350-d. Civil penalty. **(a)** Any person, firm, corporation or association or agent or employee thereof who engages in any of the acts or practices stated in this article to be unlawful shall be liable to a civil penalty of not more than five thousand dollars for each violation, which shall accrue to the state of New York and may be recovered in a civil action brought by the attorney general. In any such action it shall be a complete defense that the advertisement is subject to and complies with the rules and regulations of, and the statutes administered by the Federal Trade Commission or any official department, division, commission or agency of the state of New York.

(b) Notwithstanding subdivision (a) of this section, any firm, corporation or association or agent or employee thereof who engages in any of the acts or practices stated in section three hundred forty-nine of this article to be unlawful in connection with or during an abnormal

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

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disruption of the market shall be liable to a civil penalty of not more than fifteen thousand dollars for each violation or three times the actual restitution needed, whichever is greater, which shall accrue to the state of New York and may be recovered in a civil action brought by the attorney general. In any such action it shall be a complete defense that the advertisement is subject to and complies with the rules and regulations of, and the statutes administered by the Federal Trade Commission or any official department, division, commission or agency of the state of New York. For the purposes of this subdivision, "abnormal disruption of the market" shall mean any change in the market, whether actual or imminently threatened, resulting from stress of weather, convulsion of nature, failure or shortage of electric power or other source of energy, strike, civil disorder, war, military action, national or local emergency, or other cause of an abnormal disruption of the market which results in the declaration of a state of emergency by the governor.

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