STATE OF NEW YORK

8840

IN SENATE

April 22, 2022

Introduced by Sen. THOMAS -- 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 requiring notice to consumers of radio frequency exposure from cell phones

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

Section 1. The general business law is amended by adding a new article 19-A to read as follows:

ARTICLE 19-A

NOTICE TO CELL PHONE CUSTOMERS REGARDING RADIO FREQUENCY EXPOSURE

Section 310. Definitions.
311. Required notice.
312. Violations; remedies.

§ 310. Definitions. For the purposes of this article, the following terms shall have the following meanings, unless the context requires otherwise.

1. "Cell phone" means a portable wireless telephone device that is designed to send or receive transmissions through a cellular radiotelephone service, as defined in section 22.99 of Title 47 of the Code of Federal Regulations. A cell phone does not include a wireless telephone device that is integrated into the electrical architecture of a motor vehicle.

2. "Cell phone retailer" means any person or entity that sells or leases, or offers to sell or lease, cell phones to the public, including formula cell phone retailers. "Cell phone retailer" shall not include: (a) anyone selling or leasing cell phones over the telephone, by mail, or over the internet; or (b) anyone selling or leasing cell phones directly to the public at a convention, trade show, or conference, or otherwise selling or leasing cell phones directly to the public on fewer than ten days in a year.

3. "Formula cell phone retailer" means a cell phone retailer that sells or leases cell phones to the public, or which offers cell phones for sale or lease, through a retail sales establishment that, along with eleven or more other retail sales establishments located in the United

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

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States, maintains two or more of the following features: a standardized array of merchandise; a standardized facade; a standardized decor and color scheme; a uniform apparel; standardized signage; or a trademark or service mark.

§ 311. Required notice. 1. A cell phone retailer shall provide to each customer who buys or leases a cell phone a notice containing the following language:

"New York state law requires that you be provided the following notice:

To assure safety, the Federal Government requires that cell phones meet radio frequency (RF) exposure guidelines. If you carry or use your phone in a pants or shirt pocket or tucked into a bra when the phone is ON and connected to a wireless network, you may exceed the federal guidelines for exposure to RF radiation. Refer to the instructions in your phone or user manual for information about how to use your phone safely."

2. The notice required by this section shall either be provided to each customer who buys or leases a cell phone or shall be prominently displayed at any point of sale where cell phones are purchased or leased. If provided to the customer, the notice shall be printed on paper that is no less than five inches by eight inches in size, and shall be printed in no smaller than an eighteen-point font. The paper on which the notice is printed may contain other information in the discretion of the cell phone retailer, as long as that information is distinct from the notice language required by subdivision one of this section. If prominently displayed at a point of sale, the notice shall be printed on a poster no less than eight and one-half inches by eleven inches in size, and shall be printed in no smaller than a twenty-eight point font.

3. A cell phone retailer that believes the notice language required by subdivision one of this section is not factually applicable to a cell phone model that retailer offers for sale or lease may request permission to not provide the notice required by this section in connection with sales or leases of that model of cell phone. Such permission shall not be unreasonably withheld.

§ 312. Violations; remedies. 1. Whenever there shall be a violation of this article, an application may be made by the attorney general in the name of the people of the state of New York to a court of competent jurisdiction by a special proceeding for the imposition of a fine or the issuance of an injunction against any violation of this article, upon notice to such retailer not less than five days, to enjoin and restrain the continuance of such violations.

2. Any person found by a court of competent jurisdiction to have violated a provision of this article shall be subject to a penalty of one thousand dollars for each violation. Each individual cell phone that is sold or leased contrary to the provisions of this article shall constitute a separate violation.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.