STATE OF NEW YORK

272--A

Cal. No. 1018

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. MYRIE -- 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 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend the general business law, in relation to requiring retailers to post warning signs of the tracking of customers through cell phones or other electronic devices

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 section 390-d to read as follows:

§ 390-d. Posting of warning signs by retailers tracking customers through cell phones or other electronic devices. 1. Any retailer that tracks a customer by use of the customer's cell phone or any other electronic device while the customer is in their establishment shall conspicuously post a warning sign at each entrance indicating that such retailer performs such tracking. Such warning sign shall also provide information for customers who wish to opt out of the tracking.

2. Any retailer that violates this section shall be subject to a civil penalty of not more than one hundred dollars for the first violation, not more than two hundred fifty dollars for the second violation, and not more than five hundred dollars for each violation thereafter. The provisions of subdivision one of this section may be enforced concurrently by the director of a municipal consumer affairs office, or by the town attorney, city corporation counsel, or other lawful designee of a municipality or local government, and all moneys collected thereunder shall be retained by such municipality or local government.

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

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3. For purposes of this section, the following terms shall have the following meanings:

(a) "Electronic device" shall mean any cell phone as defined by paragraph (b) of this subdivision, personal digital assistant, handheld device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device, or any other electronic device when used to input, write, send, receive, or read text for present or future communication.

(b) "Cell phone" shall mean the device used by subscribers and other users of wireless telephone service to access such service.

(c) "Wireless telephone service" shall mean two-way real time voice telecommunications service that is interconnected to a public switched telephone network and is provided by a commercial mobile radio service, as such term is defined by 47 C.F.R. § 20.3.

(d) "Tracking" includes, but is not limited to, situations where retailers track a person's movement throughout the establishment for purposes of storing or selling such information pertaining to such person. "Tracking" does not include the use of electronic devices that are not unique to a particular person.

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