

# STATE OF NEW YORK

2404

2023-2024 Regular Sessions

## IN SENATE

January 20, 2023

Introduced by Sen. MYRIE -- 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 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:

1 Section 1. The general business law is amended by adding a new section  
2 390-e to read as follows:

3 § 390-e. Posting of warning signs by retailers tracking customers  
4 through cell phones or other electronic devices. 1. Any retailer that  
5 tracks a customer by use of the customer's cell phone or any other elec-  
6 tronic device while the customer is in their establishment shall  
7 conspicuously post a warning sign at each entrance indicating that such  
8 retailer performs such tracking. Such warning sign shall also provide  
9 information for customers who wish to opt out of the tracking.

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

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

21 (a) "Electronic device" shall mean any cell phone as defined by para-  
22 graph (b) of this subdivision, personal digital assistant, handheld  
23 device with mobile data access, laptop computer, pager, broadband  
24 personal communication device, two-way messaging device, electronic

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

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1 game, or portable computing device, or any other electronic device when  
2 used to input, write, send, receive, or read text for present or future  
3 communication.

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

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

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

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