

Committee on Consumer Affairs and Protection

Sheldon Silver, Speaker • Audrey I. Pheffer, Chair

Fall 2010

Message from the Chair

As Chair of the Assembly Consumer Affairs and Protection Committee, I am pleased to report the results of a very successful legislative session. Among the Committee's top priorities were protecting children from dangerous products and significantly updating and enhancing New York's Rent-to-Own Law.

This year the Committee advanced legislation addressing a wide range of consumer issues. Several of these initiatives have been passed by the Legislature, including legislation that would prohibit unfair paper billing fees and a measure that would require retailers to provide enhanced disclosures regarding the terms and conditions of rebates.



I am very proud of these and many other accomplishments. The Committee on Consumer Affairs and Protection will continue to pursue its goal of protecting consumers throughout all of New York State.

A handwritten signature in black ink that reads "Audrey I. Pheffer". The signature is written in a cursive, flowing style.

Audrey I. Pheffer
Chair

Improving New York's Rent-to-Own Law

Consumers with limited access to credit may turn to rent-to-own stores for certain household items such as furniture, kitchen appliances, and televisions. In a rent-to-own transaction, the consumer agrees to make weekly or monthly payments in order to rent merchandise with no obligation to keep the item unless the consumer chooses to make all the necessary payments.

Enacted in 1986, the Rent-to-Own Law regulates the terms of rent-to-own agreements and limits the price of rent-to-own transactions. After the Committee held a public hearing and investigated the effectiveness of the law's provisions, it determined that several updates and enhancements were necessary to ensure that consumers who enter into rent-to-own

contracts are protected. The Legislature passed, and the Governor signed, A.3083-E (Pheffer), which amends the law to reflect the new realities of the rent-to-own marketplace and addresses several flaws in the statute, most notably by replacing the existing price control provisions with well-defined caps on the amount that can be charged to ensure that consumers pay fair prices (Chapter 309 of the Laws of 2010). The updated law will also require rent-to-own merchants to provide consumers with several important disclosures in a clear and understandable format, provide consumers with additional rights to reinstate an agreement and pay lower periodic payments following a significant loss of income, and to have rental merchandise maintained in good working order.

Protecting Consumers from Unfair Paper Billing Fees

In recent months, there have been instances of companies charging or proposing to charge customers a fee if they choose to receive a paper bill or pay by mail. Paper billing fees unfairly impact consumers that do not have Internet access in their homes, as well as those that are uncomfortable using the Internet, including many senior citizens and those concerned about personal privacy.

In order to protect consumers from unfair paper billing fees, the Legislature passed A.9541-A

(Pheffer). This bill would prohibit businesses from charging a consumer an additional rate or fee when the consumer chooses to receive paper-billing statements or pay by United States mail. The bill specifies that businesses would be able to offer consumers a credit or other incentive to select a specific payment option, such as a discount for making an online payment. This bill is awaiting action by the Governor.

Addressing Motor Vehicle Trade-in Scams

Complaints regarding unscrupulous motor vehicle dealers that fail to pay off the prior credit balance owed on a vehicle purchased or obtained in trade in a timely manner, as agreed, have risen in recent years. In these instances, the obligation to pay the balance owed often reverts to the consumer who traded in the vehicle, and since the consumer has likely not budgeted for this extra car payment, they can suffer significant financial loss and damaged credit reports.

In order to address this issue, the Legislature passed, and the Governor signed, A.10000-A (Pheffer). This new law (Chapter 254 of the Laws of 2010) will require that when a motor vehicle dealer obtains a vehicle in trade and agrees to pay off the balance still owed on the vehicle by the consumer, the dealer would have to pay off the balance within twenty-one calendar days. Dealers will also be prohibited from selling or transferring any ownership interest in the vehicle until the balance has been paid off.

Strengthening Consumer Privacy and Preventing Identity Theft

It is well known that the widespread public exposure of personal information, especially Social Security numbers (SSN), plays a significant role in identity theft. Despite heightened awareness of this risk, some entities continue to demand that individuals furnish a Social Security Number (SSN) in circumstances when the use of such number is neither required by law or necessary.

In order to limit the unnecessary dissemination and collection of SSNs, the Assembly passed A.9532-B (Pheffer). This bill would prohibit any business entity from requiring an individual to disclose his or her SSN, or to refuse any service, privilege, or right based on an individual's refusal to disclose such number. The prohibitions contained in the bill would not apply if the SSN is required by law or covered under one of several exemptions provided for legitimate uses, including collecting child or spousal support, interacting with a law enforcement agency, and tax compliance. The Senate has not acted on this bill.

New technologies can enhance productivity and make our lives easier. However, systems that have the ability to store personal information, including systems that identify, track, and store data, such as radio frequency identification (RFID) systems, which are increasingly being used by manufacturers, retailers, and service providers, can pose a privacy risk if used improperly. To investigate the privacy implications of this new technology, the Legislature passed a bill (A.275-A, Pheffer) that would establish a task force to assess various privacy issues associated with the use of automatic identification technology and issue a report with findings and legislative recommendations. This bill is awaiting action by the Governor.



Chairwoman Pheffer and Subcommittee on Child Product Safety Chairwoman Fields examine novelty lighters at the Committee's February 23, 2010, meeting. In recent years, fires started by children playing with novelty lighters have been documented in several states.

Protecting Children from Dangerous Products

This year the Legislature passed two measures aimed at protecting our most vulnerable and precious residents. A.9223-C (Fields), which was signed into law as Chapter 245 on July 30, 2010, will help to ensure that the cribs in which our children sleep are safe by prohibiting any person or business from importing, manufacturing, or selling a crib that does not meet the standards established by the federal Consumer Product Safety Commission (CPSC) and the American Society for Testing and Materials. In recent years, over nine million unsafe cribs have been recalled, including several drop-side cribs. The CPSC has reported at least thirty-two infant and toddler deaths and hundreds of incidents of injury attributable to drop-side detachments in cribs.

In order to ensure that parents are aware of recalls involving cribs and other children's products, the Legislature passed A.9869-C (Meng). This bill would help increase parents' awareness of the United States Consumer Product Safety Commission's (CPSC) product recall e-mail alert system. Under the bill, hospitals and birth centers would be required to distribute an informational leaflet to each new maternity patient containing information on how parents and guardians can subscribe to the CPSC subscription lists to receive product recall and safety alerts via e-mail. This bill is awaiting action by the Governor.

New Protections for Shoppers: Rebates and Rainchecks

Rebates are popular with many consumers and businesses. While most rebates are provided in the form of a check, in recent months, some consumers have been surprised to find that some entities now issue rebate funds on prepaid debit cards or as store credit. In order to ensure that consumers are informed of the method of rebate payment prior to purchasing a product subject to a rebate, the Legislature passed, and the Governor signed, A.11007-A (Pheffer), which will require any entity that offers a rebate to disclose whether it will be issued in any form other than cash or a check, and whether any additional fees related to the exercise or non-exercise of the rebate apply (Chapter 269 of the Laws of 2010).

In addition to taking advantage of rebates, smart shoppers know to look for sales advertised by retailers in order to save money. When retailers sell their entire stock of a sale item, consumers can request a rain check allowing them to purchase the item at the sale price at a later date. A.10778 (Galef), which passed the Assembly, would regulate the issuance of rainchecks and require retailers to provide clear and conspicuous disclosures regarding the terms of a raincheck to consumers. The Senate has not acted on this bill.



Chairwoman Pheffer addresses a witness at the Committee's June 9, 2010, public hearing on the New York State Consumers' Right to Repair Act of 2010.

New Disclosures Required for Clothing Donation Bins

Consumers who donate clothing at a collection bin expect that the donated items will go to help someone in need. Some bins, however, serve as collection points for clothing that is sold at market prices for profit, and some companies pay a small yearly fee to non-profit organizations for the right to label their bins with the logo or name of the organization, which can mislead consumers into thinking that the materials collected will be provided to underprivileged individuals or used to fund the operations of such organization. In order to increase consumer awareness in this area, the Legislature passed, and the Governor signed, A.10766-A (Nolan). This new law (Chapter 264 of the Laws of 2010) will require any entity that places a clothing donation bin in a public space to affix to the bin a label that shall clearly and conspicuously display the name, address, and telephone number of such entity and a statement disclosing whether the items placed in the container will be used for charitable purposes or for profit.

Improving New York's Membership Campground Law

Membership campgrounds provide members with access to convenient, family-friendly vacation destinations with a host of amenities and benefits, including the ability to camp at a network of campgrounds across the nation. While these arrangements are very popular, some consumers have complained about being trapped in lengthy multi-year, and even lifetime, contracts. In response to this issue, the Assembly passed A.11119-B (Pheffer), which would provide campground members the ability to cancel their membership under certain circumstances, including when the purchaser enters a nursing home or suffers a serious injury or illness. The Senate has not acted on this bill.

Bicycle Theft Prevention

The Federal Bureau of Investigation estimates that over 1.5 million bicycles are stolen each year in the United States. These thefts not only deprive people of property, but also hinder efforts to reduce traffic congestion, help the environment, and promote physical fitness. In order to combat this problem, the Assembly passed A.9407-A, which would require the Consumer Protection Board (CPB) to establish a bicycle theft prevention website that would include information regarding proper methods for locking bicycles and the benefits of bicycle registration and an interactive feature that allows consumers to determine if a municipality has established a bicycle registration program. The bill would also require retailers that sell bicycles to inform consumers of the CPB's website via a posted sign or printed notice. Unfortunately, the Senate failed to pass this measure.

Audrey I. Pheffer, Chair

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