

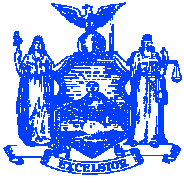
NEW YORK STATE ASSEMBLY • SHELDON SILVER, SPEAKER



2014 ANNUAL REPORT



Committee on
Consumer Affairs and Protection
Jeffrey Dinowitz, Chair



THE ASSEMBLY
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ALBANY

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Bronx County

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CHAIRMAN
Bronx Delegation

December 15, 2014

Honorable Sheldon Silver
Speaker of the Assembly
State Capitol, Room 349
Albany, New York 12248

Dear Speaker Silver:

It is my pleasure to forward to you the 2014 Annual Report of the Assembly Standing Committee on Consumer Affairs and Protection.

The work accomplished during the 2014 Legislative Session reflects the Committee's dedication to and concern for consumers' basic rights, safety, and interests. This year, the Committee advanced legislation addressing a wide range of consumer issues. Several of these initiatives have been enacted, including legislation providing important consumer protections to minors by extending existing credit freeze protections currently available only to adults.

Several other laws were enacted this year to protect consumers' rights and improve the health and safety of all consumers. Chapter 201 of the Laws of 2014 requires builders of one- and two-family dwellings of three stories or less to provide buyers with information on the installation of automatic fire sprinkler systems. Chapter 372 of the Laws of 2014, which relates to abandoned property delivered to the state, clarifies that existing statutory protections apply to abandoned property location services and claimants of such property if they are located out of the state. Chapter 501 of the Laws of 2014 prohibits unlicensed employment agencies from charging or collecting on any fees. Chapter 436 of the Laws of 2014 requires the Department of State, in consultation with the Office of Parks, Recreation, and Historic Preservation, to promulgate rules and regulations establishing safety standards for anchoring, securing, and counterweighting a moveable soccer goal.

I look forward to the upcoming 2015 legislative year during which I plan to build upon the foundations established during the 2014 year by continuing to engage consumers, advocates, governmental agencies, and businesses in a dialogue as we explore innovative and effective ways to address the consumer protection issues facing our residents.

I would like to take this opportunity to thank the Committee members for their contributions to this past year's achievements. I would also like to express my appreciation for the assistance that the Committee received from the Committee staff in the course of our work. Finally, Mr. Speaker, I commend you for your continued leadership and support of our legislative initiatives to better protect New York State consumers.

Sincerely,

Jeffrey Dinowitz, Chair

2014 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON CONSUMER AFFAIRS AND PROTECTION

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I. Committee Responsibilities and Goals

The Assembly Consumer Affairs and Protection Committee (the “Committee”) is responsible for developing legislation aimed at protecting consumers’ rights and ensuring the public’s ability to make informed choices in the marketplace. Generally, the Committee has jurisdiction over legislation that amends certain sections of the General Business and Personal Property Laws and parts of the Agriculture and Markets and Education Laws. The broad interests of the Committee reflect the fact that today’s consumers can be victims of fraud, misinformation, or lack of information that is vital to their health, safety, and welfare in many facets of life.

To protect consumers’ rights and help them make informed choices, the Committee works with consumer groups and state and federal agencies. At the state level, these agencies include: the Department of State; the Department of Law; the Department of Financial Services; the Department of Education; the Department of Environmental Conservation; the Department of Health; and the Department of Agriculture and Markets. The federal government agencies with which the Committee works include: the Federal Trade Commission (FTC); the Consumer Financial Protection Bureau (CFPB); the Food and Drug Administration (FDA); the Federal Communications Commission (FCC); the Consumer Product Safety Commission (CPSC); and the National Highway Traffic Safety Administration (NHTSA). The Committee also works with local agencies, such as the New York City Department of Consumer Affairs, local consumer affairs offices, numerous Better Business Bureaus, and bar associations throughout the State.

In addition, the Committee works to help consumers through the development of legislation under the jurisdiction of other Assembly standing committees. Such committees include the Committees on Banks; Transportation; Corporations, Authorities, and Commissions; Economic Development, Job Creation, Commerce, and Industry; Agriculture; and Insurance.

II. 2014 COMMITTEE ACCOMPLISHMENTS

A. Protecting Personal Privacy

The Assembly has consistently been a strong advocate for the protection of consumers' rights, including the protection of personal privacy. As technology continues to evolve, the potential for misuse of personal information has risen dramatically. The public is increasingly aware that it has less control over its personal and sensitive information. The Committee has taken great strides in promoting legislation that would protect the privacy of New York State's consumers.

Prohibiting Caller ID “Masking” (A.496, Paulin)

Caller identification, commonly referred to as Caller ID, is a popular feature that can help consumers avoid unwanted telephone calls. Unfortunately, new software programs have become available that allow users to alter caller identification information to mask their identity in an effort to get the recipient to answer the call. This technology can be used to make calls appear to be of a personal nature rather than a call from a telemarketer.

This bill would prohibit a business from altering its caller identification with the intent to defraud or harass the recipient of the call or a third party and would authorize the Attorney General or any person adversely affected by a violation to bring an action against a violator. In actions brought by the Attorney General, the court would be able to require restitution to any victim upon a showing of damages. The court would also be able to impose a civil penalty of not more than \$2,000 per call up to a total of \$100,000 within a continuous 72-hour period. Private individuals would be able to recover the greater of actual damages or an amount of not more than \$500 per call up to a total of \$25,000 within a continuous 72-hour period. **(Passed the Assembly)**

Prohibiting the Use of Employer Data Reports (A.6790-A, Braunstein)

Many companies outsource payroll and human resource functions to a third-party organization owned by a major credit bureau. It is estimated that at least 30% of the U.S. working population's employment data is subject to such outsourcing. According to a recent report, some consumers' employment data reports have been provided to debt collectors. It is often the case that employees are unaware of such sale or distribution of their payroll information and have little, if any, means to prevent such practice. This bill would prohibit consumer reporting agencies from selling or reselling, offering for sale or resale, or distributing employment data reports, which often include payroll and earnings information, hours worked, consumer history, and health insurance information to any principal creditor or other debt collector without first verifying that the consumer was informed of the possibility of such sale, resale, or distribution, by means of a disclosure in a separate, stand-alone document. The Attorney General and any person injured by a violation of this section would be authorized to bring an enforcement action. **(Passed the Assembly)**

B. Improving Business Practices

Credit Freezes for Minors (A.8955-B, Dinowitz)

According to a 2011 report by an identity theft protection firm, an estimated 140,000 minors are at risk of becoming victims of identity theft every year. The Federal Trade Commission advises parents to check their children's credit reports to see if their personal information is being misused, and to take immediate action if it is. However, no mechanism currently exists for parents of children in New York State to take proactive measures to protect their children's credit. Child identity theft is a particularly egregious problem because it may go undetected for years until the child applies for a student loan, other forms of credit, or employment.

Current law allows a parent to freeze the credit of a child only after a file already exists in the child's name. Often times this file exists because the child has already been the victim of identity theft. This new law will allow parents in New York to freeze their child's credit even when no file exists, thereby averting the potential for identity theft to occur in the first place. **(Chapter 441 of the Laws of 2014)**

Abandoned Property (A.9116, Simanowitz)

Currently, the General Business Law and the Abandoned Property Law require that any person or entity that sells or offers to sell in this state any abandoned property location services, to provide to the purchaser a notice, in every solicitation and agreement for such services, that abandoned funds held by the state can be obtained directly from the Office of the State Comptroller by the owner of such funds without paying a fee.

This new law will clarify the language relating to location services provided by finders because the current statutory language is ambiguous and could be interpreted to exempt abandoned property location services agreements from the provisions of this statute when both the finder and the finder's client are not located in the state of New York. This proposal corrects the problem and makes it clear that this statute applies when the finder and claimant are located outside of the state of New York. **(Chapter 372 of the Laws of 2014)**

Unlicensed Employment Agencies (A.9396-B, O'Donnell)

Under existing law, employment agencies are required to be licensed by the State and abide by existing laws, many of which offer protections to job seekers. However, certain agents have flouted those laws and masqueraded as licensed employment agencies despite having no license. Moreover, some of these unlicensed employment agencies have been able to charge and collect fees, and job applicants who have been taken advantage of by unlicensed employment agencies may not have adequate recourse because the law is not sufficiently clear on the status and practices of unlicensed employment agencies. This new law will provide an additional enforcement mechanism by prohibiting unlicensed agents from charging or collecting fees, and it will provide job applicants with an additional defense if they are facing a collection action

brought by an unlicensed agent. **(Chapter 501 of the Laws of 2014)**

Collecting Debts of Deceased Debtors (A.218-A, Rosenthal)

Some unscrupulous debt collectors attempt to collect on a deceased debtor's debts even if there is no legal requirement to pay. By requiring debt collectors to disclose that there is no legal requirement to pay, this bill would reduce the likelihood of unnecessary payments by bereaved relatives. In July 2011, the Federal Trade Commission released a Final Policy Statement related to this particular issue that indicated that debt collectors may communicate with the deceased person's spouse, executor or administrator of the deceased's estate, or any other person authorized to pay the debts from assets in the estate. While such a policy statement exists, however, it does not clarify with whom debt collectors may ask for and receive payment from; accordingly, this bill would provide more protection for consumers. **(Passed the Assembly)**

Availability of Large-print Format for Written Debt Communications (A.374, Dinowitz)

Often, when written notices are mailed to consumers, a standard, twelve-point font is used. However, this font may not be sufficiently large enough for consumers who have difficulty with their eyesight. Utility companies are currently required to send written notification to consumers each year informing them that a large-print format (i.e., sixteen point font) is available for their convenience.

This bill would require creditors and debt collectors, in their initial communication, to disclose to consumers that written communications can be received in a large-print format. Consumers who wish to receive such communications could then opt into receiving the large-print format going forward, which is especially important for those consumers who have limited or impaired vision, especially when it comes to communicating with their creditors and any debt collectors. **(Passed the Assembly)**

Requiring Debt Collectors and Buyers to Obtain a License (A.455-A, Dinowitz)

While many of those engaged in the business of debt collection are honest and ethical in their dealings, there are unscrupulous collection agencies that practice abusive tactics. It is imperative that the State protect the interests, reputations, and fiscal well-being of its citizens against those agencies that abuse their privilege of operation.

This bill would require third-party debt collection agencies and debt buyers to obtain a license from the Department of State. Debt collection agencies and debt buyers would also be required to obtain surety bonding in an amount between \$10,000 and \$75,000, depending on the number of people employed by the agency. **(Passed the Assembly)**

Improper Debt Collection Practices (A.596, Dinowitz)

Many consumers are finding themselves the subjects of debt collection proceedings. Creditors

and debt collectors in pursuit of collection often fail to inform the consumers of the important details related to the debt, such as where the debt originated, or the name and address of the original creditor. Often, debts are sold to third parties without consumers' knowledge, and consumers are left to determine the validity of collection claims from unknown entities. In addition, consumers are sometimes subjected to persistent and abusive debt collection tactics.

This bill would provide consumers with adequate recourse to address the kinds of improper practices described in those complaints while still allowing businesses to collect upon the debts owed to them. It would require that debt collectors provide notice to consumers when their debt is sold. Furthermore, it would incorporate into state law several provisions of the federal Fair Debt Collection Practices Act that governs how and when a debt collector may communicate with a debtor, require debt collectors to provide the debtor with a written notice titled "debtor's rights," and provide consumers with a private right of action. **(Passed the Assembly)**

Employment Agency Bonding (A.4208, Camara)

Under current law, employment agencies are required to maintain a surety bond in the amount of \$5,000 to protect consumers in the event that an agency goes out of business or violates the law. According to a governmental agency that has recently brought several successful enforcement actions against unscrupulous employment agencies, in some instances, bond funds are exhausted before restitution is provided to all aggrieved consumers.

The purpose of this bill is to ensure that, in cases involving fraud committed against multiple consumers, the bond amount would be large enough to allow government enforcement agencies to obtain restitution for all affected consumers. It would raise the required amount from \$5,000 to \$20,000. The bill would also require enhanced disclosure of the right to a refund of deposits and fees and require contracts to be printed in both English and the language in which they are negotiated. **(Passed the Assembly)**

Applicant Fees from Employment Agencies (A.7638-A, Moya)

Employment agencies may collect a fee for services from prospective job seekers. However, it has become increasingly common for employment agencies to charge a fee for services despite failing to place job seekers successfully. A recent study indicated that as many as two out of three immigrant job seekers are unable to secure a contract for work.

This bill would prohibit employment agencies from collecting applicant fees for job placement of Class "A" (*i.e.*, domestics, household employees, unskilled or untrained manual workers and laborers, including agricultural workers) and Class "A-1" (*i.e.*, non-professional trained or skilled industrial workers or mechanics) workers without a written contract between the applicant and the agency. The bill also would require agencies that collected advanced fees and deposits without contracts prior to October 1, 2013, to return them to the applicant if he or she was not placed in a job or if the fee was not properly applied to the applicant's account. **(Passed the Assembly)**

Private Arbitration Organizations (A.604-A, Dinowitz)

In recent years, consumer advocates have raised concerns regarding the fairness of private arbitration proceedings. Many advocates maintain that consumers may not be able to get a fair hearing since an arbitrator has a financial incentive to rule in favor of the businesses paying for his or her services. According to a 2007 report by a national non-profit consumer advocacy organization, between January 1, 2003, and March 31, 2007, arbitrators working for one of the largest private arbitration organizations ruled in favor of businesses in ninety-four percent of the cases involving California residents that it examined.

This bill would require private arbitration organizations involved in consumer arbitration cases to make certain information regarding those cases available to the public on its website and on paper upon request, unless such involvement is limited to a contractual agreement that authorizes the use of arbitration. The information required to be disclosed for each consumer arbitration would include: the name of the non-consumer party; the type of dispute involved; whether the consumer was the prevailing party; and on how many occasions, if any, the non-consumer party has been a party in an arbitration administered by the private arbitration organization.

The bill would provide for enforcement by the Attorney General of the disclosure provisions, as well as the existing prohibition against the inclusion of mandatory arbitration clauses in certain consumer contracts. The Attorney General would be empowered to seek an injunction against violators and/or a civil penalty of up to \$2,000 for each violation. **(Passed the Assembly)**

Debtor's Rights (A.606, Dinowitz)

Consumers who are faced with third-party debt collectors may not understand the rights and protections that exist under current law, especially if the consumer does not recall the debt attempted to be collected or the third-party debt collector requesting payment of such debt. This bill would require third-party debt collectors to include in any initial debt collection correspondence a notice regarding informational resources that are accessible online or by telephone. By being aware of the resources available to them by the Department of Financial Services and the New York Attorney General, consumers will have a better understanding of the rights available to them and can use that knowledge to prevent any unscrupulous debt collection activities. **(Passed the Assembly)**

Unordered Goods (A.1441, Zebrowski)

In order to boost sales, some companies have been known to ship unordered goods, such as a book or pocket knife, to consumers and then demand payment unless the goods are returned at the consumer's expense. This marketing technique is restricted under state and federal laws, which provide that consumers who receive unordered goods may treat the merchandise as a free gift that does not have to be returned. Despite these existing protections, consumers continue to report instances in which they received unordered goods.

Currently, New York's unordered goods statute authorizes the Attorney General to seek an injunction to restrain the sending of additional unsolicited goods. This bill would further authorize the Attorney General or any person adversely affected by a violation to bring an action against an alleged violator to recover the greater of actual damages or up to \$500 for each instance in which goods were sent in violation. **(Passed the Assembly)**

Burial of Cremains in Pet Cemeteries (A.1593-B, Abinanti)

Recently, the Department of State promulgated regulations relating to the burial of human cremated remains ("cremains") in pet cemeteries. Prior to the issuance of these regulations, it was unclear what protections existed for cremains buried in pet cemeteries, which are subject to different laws than that of cemeteries, and what, if any, governmental entity had oversight of this practice.

This bill would require pet cemetery owners and operators who allow for the burial of human cremains to provide a notice to anyone seeking such a burial that human cremains buried in a pet cemetery are not subject to the same protections as human cremains buried in a non-pet cemetery. In addition, this bill would allow pet cemetery owners and operators to charge a reasonable fee to cover the cost of burying cremains. **(Passed the Assembly)**

Jewelry Repair (A.1728-A, Hooper)

Sometimes, when consumers take items of jewelry in for repairs, a jeweler may make alterations, adjustments, or repairs that cause a significant portion of the jewelry to be separated from the original piece of jewelry. This may happen, for example, if a ring is brought in to be resized or a ring is brought in for the replacement or addition of precious stones. Under this bill, any such portion of jewelry of a significant size that is separated from the original piece of jewelry must be returned to the consumer upon the completion of services by the jeweler. **(Passed the Assembly)**

Cramming/Unauthorized Telephone Charges (A.1795-A, Skartados)

This bill would prohibit telephone corporations from permitting the practice of cramming. "Cramming" would be defined as the imposition of any charge or fee on a consumer's telephone bill when such charge or fee is imposed by a third party or billing aggregator without the consumer's authorization or with authorization that is obtained through deceptive means. Any third-party charges or fees that are included without consent would be deemed void and unenforceable and would have to be removed upon notice from the consumer.

In order for a telephone corporation to authorize billing a charge by a third party, the third party would have to provide the telephone corporation with proof that the consumer consented to the charge after being informed of all the terms and conditions of the product or service offered. The Public Service Commission would be authorized to enforce the bill's provisions and would have the authority to promulgate any necessary rules and regulations. **(Passed the Assembly)**

Magazine Subscription Telephone Numbers (A.5337, Dinowitz)

Consumers sometimes find themselves the recipient of unwanted and unsolicited magazines that fill their mailboxes and ultimately end up in the recycling bin. While many magazine titles provide consumers with information on how to contact the publisher regarding the receipt of such magazines, other magazine titles do not offer a convenient means to contact the publisher about the receipt of an unwanted magazine other than electronically.

This bill would require magazine publishers to include a customer service telephone number on the billing statement of the invoice of the magazine. This way, consumers who are receiving monthly installments of unwanted magazines can be assured of a means to contact the publisher to inform them that they no longer wish to receive the magazine. **(Passed the Assembly)**

Creates the State Office of the Utility Consumer Advocate (A.6239-B, Dinowitz)

More than 40 states have an independent state agency that represents the interests of residential utility customers. New York is one of few states, and by far the largest, without such an independent office. States that have implemented these agencies have secured substantial savings on utility costs for consumers. For example, in California, it is estimated that for every \$1 spent representing and advocating on behalf of public utility customers in the 2012 report year, the average customer saved \$153 per year.

This bill would create the State Office of the Utility Consumer Advocate to serve as an independent advocate and appear on behalf of New York residential utility consumers in state and federal regulatory proceedings, as well as judicial review proceedings concerning rates and conditions of public service utilities. **(Passed the Assembly)**

Standardized Bill Format for Public Utilities (A.6757-A, Dinowitz)

Telephone and utility bills are often confusing, especially for the elderly and those with disabilities. By creating uniform terminology for billing statements across all utility companies that provide the same service, this bill would make it much easier to understand what consumers are being charged and to compare bills between companies.

This bill would require utility, telephone, and cable companies to use universal terminology, definitions, and billing forms that would be decided upon by the Public Service Commission. **(Passed the Assembly)**

Wireless Service Contracts (A.7964-B, Rozic)

While “shared minute” and “family plan” wireless telephone contracts allow consumers to save money by consolidating costs, any fees for the early cancellation of such contracts vary widely across providers, which is problematic in instances when such fees are levied against victims of domestic violence fleeing their batterers. When fleeing a batterer, victims of domestic violence

often leave behind items of great financial value, creating significant challenges to their ability to afford to move to safety. Providing an escape clause in such shared minute and family plan contracts so that victims of domestic violence will not have to continue paying for services shared with their batterer is good public policy, and consistent with New York's and the telecommunications industry's traditional support for domestic violence victims. This bill would allow victims of domestic violence who are under a shared or family contract with their batterer to opt out of such plan without penalty. **(Passed the Assembly)**

Employment Agency Practices (A.9742, Moya)

Many consumers who enlist the help of employment agencies are not native English speakers and are at a disadvantage when presented with English-only employment contracts and terms and conditions of employment. Furthermore, even in an instance of wrongdoing by an employment agency, current law limits the available methods and means of recourse for consumers, which only exacerbates the problem.

This bill would strengthen protections for job applicants and end certain predatory practices that certain employment agencies use. Some of the added consumer protections include: better regulation over employment agencies, ending the charging of advance fees, notification to job applicants in their native language, requiring written terms and conditions of employment in English and the applicant's preferred language, and allowing for a private right of action. **(Passed the Assembly)**

C. Protecting Consumer Health and Safety

Labeling Sunscreen Products (A.2727-B, Weisenberg)

According to the American Cancer Society, over 800,000 new skin cancer cases of curable basal cell or squamous cell cancers are diagnosed each year. Since 1973, the incidence of skin cancer has increased about four percent per year. Many consumers use sunscreen products to prevent the risk of skin cancer. In light of how important these products are in combating skin cancer, it is important that the consumer be aware that sunscreen does not protect against the sun's rays after a certain shelf life. This legislation would increase consumer awareness of sunscreen product effectiveness by requiring all products to be labeled with a "best if used before" date.

Unfortunately, this bill was vetoed by the Governor on the grounds that the provisions of this bill are preempted by federal law. The Committee intends to determine if any changes should be made to this bill next year to address the concerns raised by the Governor. **(Veto Memo 531)**

Moveable Soccer Goal Safety (A.5308-C, Otis)

In recent years, there have been a number of tragic accidents associated with unsecured, moveable soccer goals toppling over and injuring or killing young soccer players. Sadly, these accidents may have been prevented if the soccer goals were properly secured to the ground.

This bill would require the Department of State, in consultation with the Office of Parks, Recreation, and Historic Preservation, to promulgate rules and regulations establishing safety standards for anchoring, securing, and counter-weighting moveable soccer goals that comply with the guidelines for moveable soccer goal safety produced by the United States Consumer Product Safety Commission or its successor. This bill would prohibit any person, firm, corporation, or other legal entity from erecting a moveable soccer goal not in compliance with these rules and regulations, excepting those goals erected upon one-, two- and three-family residential real property. **(Chapter 436 of the Laws of 2014)**

Automatic Fire Sprinkler Systems (A.7916-A, Morelle)

The 2009 edition of the International Residential Code, which is put forward by the International Code Council, contained a provision requiring the installation of automatic fire sprinklers in one- or two-family residential new construction houses beginning January 1, 2011. New York's residential code, however, only requires the installation of automatic fire sprinklers in buildings containing three or more stories. It is estimated that the cost of installing automatic fire sprinklers averaged \$1.61 per sprinklered square foot and such installation can cut the likelihood of someone perishing in a house fire by half.

This new law will require builders to provide buyers with information on the benefits of installing an automatic fire sprinkler system in one- or two-family houses as well as costs associated with such installation. As a result, New Yorkers constructing a new one- or two-family house will be informed of the availability, benefits, and costs of automatic fire sprinkler systems and can decide whether to choose to have them installed. **(Chapter 201 of the Laws of 2014)**

Unsafe Baby Cribs (A.8958, Dinowitz)

Chapter 381 of the Laws of 2013 conformed New York's crib safety standards with those established by the U.S. Consumer Product Safety Commission in December 2010. This new law will clarify the law as it relates to child care facilities that have been compliant with such crib safety standards under the Office of Children and Family Service's existing statutory and regulatory authority. In addition, the law will remove a standard that was withdrawn prior to Chapter 381 of the Laws of 2013's enactment. **(Chapter 24 of the Laws of 2014)**

Small, Magnetic Jewelry (A.733, Weprin)

Numerous products in the marketplace pose hazards if they are swallowed. This bill intends to address some of those products, such as consumer products containing novelty magnets (e.g., tongue-piercing mimics) that can cause severe health issues or death if swallowed. The Consumer Product Safety Commission has issued recalls on some of these products, but sometimes these recalls are voluntary and consumers may not be aware of the potential hazards of these products. This bill would prohibit the sale and distribution of tongue-mimicking magnets

and would require labels on magnet novelty consumer products indicating the possibility of serious infections and death if swallowed. Consumers, particularly parents, should have these disclosures made available to them in order to make informed purchasing decisions for younger people. **(Passed the Assembly)**

Price Gouging of Prescription Drugs (A.3751-B, Crespo)

There have been several reported instances of disreputable distributors hoarding prescription drugs during a shortage and offering such drugs to hospitals and pharmacies at grossly inflated prices. This bill, which is modeled on the existing price gouging statute applicable to the offering of goods and services during times of emergency and market disruptions (General Business Law, §396-r), would prohibit selling a drug reported as being subject to a shortage by the U.S. Food and Drug Administration at an unconscionably high price. **(Passed the Assembly)**

Important Information Regarding Weight Loss Services (A.6259, Cook)

Millions of New Yorkers have tried or are trying to lose weight for medical and cosmetic reasons. It is estimated that dieters across the nation are collectively spending as much as \$33 billion each year on diet programs and products. The purpose of this bill is to provide consumers with relevant information by requiring any person, firm, or corporation offering weight loss services and/or products to post a conspicuous warning notice of the risks associated with rapid weight loss and consumers' need to consult their doctors prior to starting any weight loss program or using diet medications or formulas. **(Passed the Assembly)**

Used Motor Vehicle Recalls (A.6522-B, DenDekker)

When a manufacturer initiates a motor vehicle recall, the manufacturer is required to contact the registered owners of those vehicles and notify them that a safety recall is in place. However, many times consumers have sold or traded their vehicle to dealers or third parties, and the manufacturers have difficulty notifying the person or entity that has possession of the vehicle.

This bill would require used car dealers to search a website database and notify a purchaser before the purchase is made if the motor vehicle is currently subject to a recall. If there are any open recalls applicable to the used motor vehicle, the dealer could either make the repairs required by the manufacturer's recall, bring the vehicle to an authorized dealer and have the recall satisfied; or the dealer could notify the purchaser, in a separate written notice, of any and all manufacturer's recalls applicable to the motor vehicle being purchased. **(Passed the Assembly)**

Combating the Spread of Bed Bugs (A.8476, Dinowitz)

In recent years, bed bugs have been found in all types of living quarters, including apartments, dormitories, and mansions, and the number and severity of infestations continues to rise. Cross-

contamination between used mattresses contaminated with bed bugs and new mattresses has contributed to the spread of these noxious pests that can be very difficult to eradicate.

This bill would remove an exemption in existing law that allows mattress sellers to sell as “new” bedding that has been returned by the purchaser within thirty days. It would also prohibit the transportation, storage, or display of used bedding with new bedding unless the used bedding has been sanitized or is enclosed in a membrane designed to prevent the passage of contaminants and pests. **(Passed the Assembly)**

III. HEARINGS AND ROUNDTABLES

A. Hearing on the Impact of Data Breaches on Consumers and the Availability and Sufficiency of State Resources Available to Consumers.

On November 14, 2014, the Committee held a public hearing to examine the impacts on consumers regarding recent data breaches, including any legislative and budgetary solutions. The hearing was held in response to the fact that several major retailers have revealed that the security of certain personal information stored by such retailers and relating to consumers had been compromised through a series of large-scale data breaches. In such instances, hackers have used sophisticated methods to bypass what were thought to be comprehensive security methods put in place by retailers to prevent such crimes to gain access to highly sensitive personal information, including consumers’ credit card information. Considering the extent of such breaches to date, the Committee held a hearing to understand how such breaches occur, how A.10190 (Dinowitz) could address these issues, what other proactive measures can be undertaken, and how the Department of State can use existing resources to assist affected consumers and whether any additional legislative or budgetary measures are required.

Representatives from the Department of State’s Division of Consumer Protection and from the Retail Council provided testimony to members of the Committee on data breaches. In addition, several other organizations sent written testimony to become part of the written record for this hearing. All of this information will be useful in the upcoming session as the Assembly will consider how to best protect consumers from the effects of data breaches.

IV. OUTLOOK AND GOALS FOR 2015

The 2015 Legislative Session promises to present many challenges to the Consumer Affairs and Protection Committee. The Committee will pursue many of the issues it addressed during the 2014 Session, and new issues will emerge for consideration. As in the past, the Committee will continue to address issues brought to its attention by legislators, the executive branch, staff, and the people of the State of New York.

APPENDIX A

CHAPTERS OF 2014

A.5308-C	Otis	Requires the Department of State, in consultation with the Office of Parks, Recreation, and Historic Preservation, to develop safety standards for moveable soccer goals. (Chapter 436 of the Laws of 2014)
A.7916-A	Morelle	Requires builders of one- and two-family dwellings of less than three stories to provide buyers with information on the installation and maintenance of automatic fire sprinkler systems (Chapter 201 of the Laws of 2014)
A.8955-B	Dinowitz	Establishes a system for the parents and guardians of minors to have consumer credit reporting agencies place and remove credit freezes on minors' credit files/records (Chapter 441 of the Laws of 2014)
A.8958	Dinowitz	Clarifies the applicable safety standards and requirements relating to unsafe cribs in child care facilities (Chapter 24 of the Laws of 2014)
A.9116	Simanowitz	Clarifies statutory language relating to abandoned property delivered to the state and held by the state Comptroller when both the finder and claimant are located out of the state. (Chapter 372 of the Laws of 2014)
A.9396-B	O'Donnell	Prohibits the imposing or collecting of any fee by an unlicensed employment agency. (Chapter 501 of the Laws of 2014)

APPENDIX B

2014 BILLS PASSED BY THE ASSEMBLY

A.218-A	Rosenthal	Would prohibit debt collectors from illegally collecting or attempting to collect a debt owed by a deceased debtor.
A.374	Dinowitz	Would require debt collectors to inform debtors that written communications are available in large print format.
A.455-A	Dinowitz	Would require debt collection agencies to be licensed by the state.
A.496	Paulin	Would prohibit a business from altering its caller identification with the intent to defraud or harass the recipient of the call or a third party.
A.596	Dinowitz	Would provide for greater consumer protections during debt collection proceedings.
A.604-A	Dinowitz	Would require private arbitration organizations to make certain information regarding the outcomes of consumer arbitrations available to the public on its website.
A.606	Dinowitz	Would require debt collectors to send a written notice of their rights under state law along with their debt collection correspondence.
A.733	Weprin	Would prohibit the sale of jewelry containing small magnets to be used in the mouth and would require a warning label on other such jewelry.
A.1441	Zebrowski	Would authorize the Attorney General to bring an action for violation of the prohibitions concerning unlawful selling practices.
A.1593-A	Abinanti	Would require pet cemeteries to provide notice relating to the burial of human cremains in pet cemeteries.
A.1728-A	Hooper	Would require jewelers to return to consumers any significant portions of the jewelry that have been removed during a repair.
A.1795-A	Skartados	Would prohibit telephone companies from permitting third parties or billing aggregators to impose charges on telephone bills without the consent of the consumer.
A.3751-B	Crespo	Would prohibit sale of a drug reported as being subject to a shortage by the U.S. Food and Drug Administration at an unconscionably high price.

A.4208	Camara	Would increase the amount of the surety bond an employment agency is statutorily required to maintain from \$5,000 to \$20,000, enhance existing disclosure requirements, and require contracts to be printed in the language in which they are negotiated.
A.5337	Dinowitz	Would require magazine publishers to disclose on the billing statement or invoice a customer service telephone number.
A.6239-B	Dinowitz	Would create the State Office of the Utility Consumer Advocate to serve as an independent advocate for residential utility consumers in state and federal regulatory proceedings, as well as judicial review proceedings concerning rates and conditions of public service utilities.
A.6259	Cook	Would require weight loss programs to disclose the risks of rapid weight loss.
A.6522-B	DenDekker	Would require used car dealers to search for recalls prior to selling a used motor vehicle.
A.6757-A	Dinowitz	Would require utility, telephone, and cable companies to use universal terminology, definitions, and billing forms, which would be decided upon by the Public Service Commission.
A.6790-A	Braunstein	Would prohibit credit reporting agencies from selling or reselling, offering for sale or resale, or distributing employment data reports to debt collectors.
A.7638-A	Moya	Would prohibit employment agencies from collecting applicant fees for job placements of certain workers and require refunds if the job seeker does not gain employment through the agency.
A.7964-B	Rozic	Would require cell phone companies to allow victims of domestic violence out of their contracts with their abusers.
A.8476	Dinowitz	Would provide for the sanitization of every used mattress or bedding material transported, stored, or sold in the state.
A.9742	Moya	Would provide for stronger consumer protections for job applicants seeking employment through the use of an employment agency.

APPENDIX C

VETOES of 2014

A.2727-B	Weisenberg	Requires sunscreen products to be labeled with a best if used before date if such products do not maintain their effectiveness and integrity for at least three years.
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APPENDIX D

2014 SUMMARY OF ACTION ON ALL BILLS REFERRED TO
THE ASSEMBLY COMMITTEE ON CONSUMER AFFAIRS AND PROTECTION

<u>Final Disposition of Bills</u>	<u>Assembly Bills</u>	<u>Senate Bills</u>	<u>Total</u>
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee	5	0	5
To Floor; Recommitted and Died	0	0	0
To Ways and Means	4	0	4
To Codes	37	0	37
To Rules	6	0	6
To Judiciary	0	0	0
Total	52	0	52
<u>Bills Having Committee Reference Changed</u>			
Total	0	0	0
<u>Senate Bills Substituted or Recalled</u>			
Substituted		1	1
Recalled		0	0
Total		1	1
Bills Defeated in Committee	0	0	0
Bills Held in Committee with a Roll-Call Vote	10	0	10
Bills Never Reported, Held in Committee	115	5	120
Bills Having Enacting Clause Stricken	15	0	15
Motions to Discharge Lost	0	0	0
Total Bills in Committee	192	6	198
Total Number of Committee Meetings Held		10	