

Committee on Consumer Affairs and Protection

Carl E. Heastie, Speaker • Jeffrey Dinowitz, Chair

Message from the Chair



Dear Friend,

On behalf of the New York State Assembly Committee on Consumer Affairs and Protection I am pleased to report to you with an update of the Committee's work over the last few months. Included in this newsletter you'll read about legislation that has been signed into law since the end of the 2016 session, others awaiting action by the Governor, and some relevant information for the upcoming holiday season.

The 2017 legislative session is rapidly approaching and the Committee will be working on legislation and an upcoming hearing to prepare for the next year. Legislation that did not pass both houses of the legislature will once again be considered and we will work on their ultimate passage. Bills that passed both houses have begun to be sent to the Governor for his consideration.

Like always, you will find information that I hope can be put to good use in the coming months to make sure you avoid troublesome situations and keep you and your family safe, sound, and perhaps more importantly warm. Please take note of the legislative highlight on a new law I authored that will strengthen New York's gift card laws, ensuring that should you receive or give one this year, your purchase will now be better protected from fees and expiration.

Again, I hope you are able to have a nice holiday season and that you enjoy the contents of this newsletter. My colleagues and I will begin to recalibrate our focus to Albany and work to ensure New York remains a safe place for consumers and businesses alike. I wish a happy holiday and New Year to you and yours.

Sincerely,



Jeffrey Dinowitz
Chair, Committee on Consumer Affairs and Protection

Important Contacts

NYS Department of State Division of Consumer Protection

5 Empire State Plaza
Suite 2101
Albany, New York 12223
1-800-697-1220

[www.dos.ny.gov/
consumerprotection](http://www.dos.ny.gov/consumerprotection)

The Division of Consumer Protection provides direct assistance and intervention to resolve marketplace complaints, mitigate the consequences of identity theft and frauds, and advocate for greater consumer rights and remedies under New York State law.

NYS Attorney General

The Capitol
Albany, New York 12224
1-800-771-7755

www.ag.ny.gov

The New York State Office of the Attorney General mediates and litigates various cases against businesses and individuals engaged in fraudulent, misleading, deceptive or illegal trade practices. The Office pays special attention to patterns of complaints involving the same company, in addition to new and unique issues. Otherwise, the Attorney General's office will direct consumers to the appropriate agency.

Federal Trade Commission

600 Pennsylvania Ave., NW
Washington, DC 20580
1-877-382-4357

www.ftc.gov

The Federal Trade Commission's Bureau of Consumer Protection works to prevent fraudulent, deceptive, and unfair business practices by enforcing federal consumer protection laws in order to maintain a balanced marketplace.

Consumer Financial Protection Bureau

P.O. Box 4503
Iowa City, Iowa 52244
1-855-411-2372

www.consumerfinance.gov

The Consumer Financial Protection Bureau is the newest federal consumer protection agency to improve the fairness of markets for consumer financial products and services, whether consumers are applying for a mortgage, choosing among credit cards, or using any number of other consumer financial products.

Legislative Highlights

Gift Card and Gift Certificate Fees (A.7610-E, Dinowitz)

The federal CARD Act of 2009 has changed the landscape of gift cards by, among other things, prohibiting certain fees without disclosure, and by prohibiting cash values from expiring for at least five years. Moreover, the federal law authorizes individual states to enact stronger consumer protections with regard to regulating hidden fees associated with gift cards and certificates.

This bill amends the General Business Law to require that companies issuing gift cards disclose the procedure for replacing a lost or stolen gift card to consumers if the company has one. The bill bans any dormancy from being placed on the gift card before the twenty-fifth month of non-use. The bill also makes it unlawful, under most circumstances, for a gift certificate to have an expiration date of less than five years after the date of purchase or the last date on which funds were added to the certificate. **(Chapter 329 of the Laws of 2016)**

Sugar Sweetened Beverages A.2320-B (Dinowitz)

The prevalence of obesity in the United States and in New York State has increased dramatically over the past 30 years. While there is certainly more than one cause for this increase, many people believe that sugar-sweetened beverages are a unique contributor to excess caloric consumption. The effects of obesity are of particular concern because obesity is associated with health ailments such as diabetes, heart disease, osteoarthritis, high blood pressure, and certain types of cancer. Medical costs are also a growing concern; each year, obesity-related ailments account for \$147 billion in health care costs nationally.

This bill would establish requirements that specific warnings be placed on sugar sweetened beverages before they are sold which explain the health risks that are associated with these types of beverages. The bill also requires retailers with sugar sweetened beverage dispensing machines to post the warning on the dispensing machine or on any menu which promotes the sale of these beverages in certain cases. The bill also establishes penalties for failure to comply with this potential legislation. **(Reported to the Assembly Rules Committee)**

Regulating the Transmission of Caller Identification Information (A.9457-A Mayer)

There is a growing problem in New York where consumers answer their phones after checking their caller identification only to find themselves on the phone with completely different individuals than they expected. Consumers in this state have a right to know accurately who they are being called by when they have a caller identification service. Transmitting inaccurate caller identification can lead to confusion by consumers and enables them to be taken advantage of by bad actors, and telemarketing scams.

This bill would make it unlawful for a telemarketer or vendor to cause a caller identification service to transmit inaccurate information to a consumer via a caller identification system. In every case where a court shall determine that a violation of this section has occurred, it may impose a civil penalty of not less than one thousand dollars nor more than two thousand dollars for each violation. The bill would also provide a heavier fine for transmitting false caller identification information to a consumer whose telephone number has been placed on the New York State "Do Not Call Registry". **(Passed Both Houses)**

Consumer Tips for t

The holiday season is here once again, and that means shoppers will fill the stores, fireplaces and festive lights will be lit, and heating systems will be turned up to guard against cold winter nights. While you go about your holiday activities, keep the following tips in mind so that you and your loved ones may enjoy a safe and warm holiday season.

Toy Shopping Tips

Before heading out to the stores, it is a good idea to familiarize yourself with the latest toy recalls by visiting the Consumer Product Safety Commission's

(CPSC) product recall site at: <http://www.recalls.gov/> or by calling 1-800-638-CPSC. Once at the store, be sure to purchase toys that are appropriate for the age of the child (most manufacturers include age guidelines on packages), and be aware of the top five toy hazards identified by the CPSC, namely scooters and other riding toys, small balls and other toys with small parts, balloons, magnets and toys with chargers and adapters. Also, be sure to discard any plastic wrappings from toys before they become dangerous playthings. Lastly, when shopping for infants and toddlers, avoid toys with removable parts or cords.

Legislative Summary

A.180-A (Dinowitz) – 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)**

A.309 (Dinowitz) – This bill would prohibit used bedding from being stored or sold with new bedding unless such used bedding has been sanitized in accordance with regulations to be promulgated by the Department of State (DOS). Under the bill used mattresses would not be allowed to be transported with new bedding unless such used bedding has been sanitized pursuant to such DOS regulations or is enclosed in non-permeable plastic film or similar material designed to prevent the passage of contaminants. The bill prohibits shipping bags or similar products from being used as the required non-permeable cover; and requires DOS to inspect, at least once during any continuous three-year period, every place where articles of bedding are made, remade, renovated, sterilized, or where such articles or materials are sold. **(Passed Assembly)**

A.326-A (Rozić) – This bill would require wireless telephone service companies to allow a person under a shared phone plan contract to opt-out of such plan, without charge, if such person is a victim of domestic violence and the perpetrator of the crime is under the same shared phone plan contract. **(Passed the Assembly)**

A.1903 (Dinowitz) – This bill would prohibit any supplier of gas or electric service, or any person, firm or corporation, acting as such supplier's agent or representative, from making or directing any change in a supplier of gas or electric service, on behalf of a customer, unless such supplier, agent, or representative complies with the requirements to authorize and verify such change. This bill would also outline the procedures and penalties for violating this legislation. **(Passed the Assembly)**

A.3174 (Peoples-Stokes) – This bill would regulate all business entities that own or possess a copier, facsimile device or multifunction device that uses data storage to store, reproduce, transmit or receive data or images that may contain personal information. Businesses with these devices would be required to secure the data through the use of encryption software or by destroying the data through physical or technological means prior to relinquishing ownership of the device. This would also apply to companies that lease these devices to businesses and require them to follow the same information protection guidelines. **(Passed Assembly)**

A6731 (Crespo) – 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, 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)**

A.8602-A (Simotas) – This bill would define the term "liquid detergent packets" when referring to laundry detergent. The bill would require packages for liquid detergent packets to be in a container that is child-resistant, require the packets within the container to be in one uniform color and require each packet to be contained within a non-permeable wrapper with a specific warning printed on the wrapper. The bill would require that there be a specific warning label to be printed on all containers for liquid detergent packets sold in this state. **(Reported to the Assembly standing committee on Codes)**

A.9817-A (Galef) – This bill would ban the manufacture, import, sale, offer, gift or lending of a firearm designed to look like an object that is not a firearm and set a class "A" misdemeanor as the penalty for violating this section. **(Reported to the Assembly standing committee on Codes)**

The Holiday Season

Holiday Safety

During the holiday season, a crackling fire, decorative candles, and illuminated decorations can bring a festive mood to any household. However, these seasonal amenities can pose a fire hazard. Fortunately, there are steps you can take to protect your family. If you plan to use your fireplace or woodstove or burn candles in the coming weeks, keep the following safety tips in mind. Be sure to have your chimney inspected and cleaned by a certified specialist annually. Always keep the area around your fireplace, woodstove, or candles free of flammable

materials, and never leave a fire unattended. Only use holiday lights that have been tested for safety by a nationally-recognized testing laboratory, and make sure that any lights used outside are certified for outdoor use. Check holiday lights for damaged wires and avoid using more than three sets of lights per extension cord. Lastly, make sure to keep live holiday trees watered and place the tree away from fireplaces, vents, and radiators.

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Winterize Your Home

Home heating season is upon us, and homeowners are looking for ways to reduce their heating costs. There are steps you can take to winterize your home that can save money and increase your personal comfort. First, consider having your furnace checked by a professional to ensure that it is working efficiently. Be sure to replace the furnace filter regularly and according to the

manual, and consider installing a programmable thermostat that allows you to regulate the temperature of your house when you are not home. Lastly, consider caulking and weatherstripping doors and windows, which can help lower your bill by trapping heat in your home and keeping cold winter drafts at bay.

Heat Regulations for Tenants

By law, tenants in a multiple dwelling or multiple residence (i.e., a building with three or more apartments) must be provided with heat and hot water as follows:

Heat: From October 1 through May 31 – Between 6 a.m. and 10 p.m. heat must register 68 degrees Fahrenheit when the outside temperature falls below 55 degrees Fahrenheit. Between 10 p.m. and 6 a.m., heat must register 55 degrees Fahrenheit when the outside temperature falls below 40 degrees Fahrenheit.

Hot Water: 24 hours a day – every day of the year. Hot water must register at or above a constant temperature of 120 degrees Fahrenheit at the tap.

The NYS Division of Housing and Community Renewal (DHCR) is authorized to reduce the rent of any rent-stabilized or rent-controlled apartment when these required heat and hot water services are not maintained. Tenants should file an Application for Rent Reduction for Failure to Provide and Maintain Heat and/or Hot Water Service with the DHCR if the landlord does not provide proper heat or hot water. This form is available for you at my office.

2016 Legislative Update from the New York State Assembly

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To update or remove your name from the Committee mailing list, email committeemailinglist@assembly.state.ny.us. Please include the Committee name in the subject line. Please provide the name and address as it appears on the mailing label and any changes you would like made.

Committee on Consumer Affairs and Protection

Assemblyman Jeffrey Dinowitz, Chair