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Title: A Local Law to amend the administrative code of the city of New York, in relation to requiring notices relating to the rights of mobile phone consumers.

Sponsors: Betsy Gotbaum, Leroy G. Comrie, Jr., John C. Liu, Gale A. Brewer, Lewis A. Fidler, Vincent J. Gentile, Alan J. Gerson, Letitia James, G. Oliver Koppell, Michael C. Nelson, Annabel Palma, James Sanders, Jr., David I. Weprin, Thomas White, Jr.

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Int. No. 483

By the Public Advocate (Ms. Gotbaum), Council Members Comrie, Liu, Brewer, Fidler, Gentile, Gerson, James, Koppell, Nelson, Palma, Sanders Jr., Weprin and White Jr.

A Local Law to amend the administrative code of the city of New York, in relation to requiring notices relating to the rights of mobile phone consumers.

Be it enacted by the Council as follows:

Section 1. Chapter 5 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 16, to read as follows:

Subchapter 16

Disclosure of Information in Wireless Stores

§20-810 Definitions.

§20-811 Display of Consumer Information.

§20-812 Violations.

§20-810 Definitions . For purposes of this subchapter, the following definitions shall apply:

(a) “authorized dealership” means any wireless store that is not owned, leased, or managed by a specific wireless service provider, and offers for sale, lease or rental, the wireless services of one or more wireless service provider;

(b) “mobile telephone” means a cellular, analog, wireless, digital or other similar telephone or communications device, that can be used to access a 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 section 20.3 of title 47 of the code of federal regulations;

(c) “wireless service provider” shall mean any company, co-partnership, firm, association, corporation or other like organization that provides a commercial mobile radio service as such term is defined by section 20.3 of title 47 of the code of federal regulations;

(d) “wireless service provider store” shall mean any wireless store that is owned, leased, or managed by a specific wireless service provider and offers wireless services only of such wireless service provider;

(e) “wireless store” shall mean any establishment which offers for sale and sells products or services related to commercial mobile radio services, as such term is defined by section 20.3 of title 47 of the code of federal regulations; and,

(f) “wireless service” shall mean providing communication through radio frequency signals rather than through end-to-end wire communication and shall include cellular telephone services, personal communication services, or both.

(g) “store-specific fees” shall mean any fees, charges or costs associated with the sale or lease of any wireless service that may be billed by a particular wireless store in addition to any fees, charges or costs charged by a wireless service provider.

§20-811 Display of Consumer Information. Every wireless store shall conspicuously post a notice, in

a form and manner to be provided by rule of the commissioner, containing, at a minimum, the following information:

(i) whether such wireless store is an authorized dealership or a wireless service provider store;

(ii) whether the wireless store charges any store-specific fees, including, but not limited to restocking and cancellation fees, and if the wireless store charges any store-specific fees, the amounts and terms of such fees;

(iii) whether any corporate discounts are available and, if any such discounts are available, the amounts and terms of each such discount as well as the process to be followed in order to obtain such discount; and,

(iv) that individual wireless service customers have the right to change service providers within the same local area and still retain the same phone number, pursuant to section 251(b)(2) of title 47 the united states code and section 52.23 of title 47 of the code of federal regulations.

(v) that additional government taxes, fees and surcharges may cause a wireless customer's monthly bill to exceed the rate quoted by the wireless store.

§20-812 Violations. Any person who shall violate the provisions of this subchapter or the rules promulgated pursuant hereto, shall, upon conviction thereof, be liable for a civil penalty of not less than one hundred dollars nor more than two hundred-fifty dollars for the first offense and a penalty of not less than two hundred dollars nor more than five hundred dollars for each succeeding violation occurring within ninety days of the previous violation. For the purposes of this section, no more than one violation of section 20-811 of this subchapter may be issued to the same wireless store on the same business day.

§2. Effect of invalidity; severability. If any section, subdivision, sentence, clause, phrase, or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions

shall continue in full force and effect.

§3. This local law shall take effect one hundred twenty days after its enactment provided, however, that the commissioner shall take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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