

New York Bill to Amend Deceptive Trade Practices Law May Encourage Lawsuits

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The New York legislature is considering significantly expanding the state's deceptive trade practices law to cover "unfair" and "abusive" practices and to raise the minimum amount recoverable for proving a claim from \$50 to \$2,000. In addition, the bill ([S.2407](#) and A.679) would authorize class actions "to recover actual, statutory and/or punitive damages" for the first time under the law.

Currently, New York law (General Business Law Section 349) bars deceptive trade practices and provides a safe harbor defense for defendants whose conduct complies with a Federal Trade Commission regulation. The New York Attorney General may bring a cause of action on behalf of plaintiffs to enjoin unlawful or deceptive acts and seek restitution for actual damages or \$50, whichever is greater. Any person injured by a violation of Section 349 has a right to bring suit in court.

The bill would amend Section 349 to prohibit "any unfair, deceptive or abusive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service." The term "unfair" is broadly defined in the bill. In addition, defendants would be liable under the bill if they may have known or reasonably should have known that a plaintiff was physically infirm, illiterate, or unable to understand an agreement's language.

Further, the bill would eliminate the damages-award limit of "three times the actual damages up to one thousand dollars" if a court that finds a willful or knowing violation of the law. It also provides that a "court shall award reasonable attorney's fees and costs to a prevailing plaintiff."

If enacted, these changes to the law would significantly increase business risk to litigation and consequently increase the cost of general liability insurance coverage.

The Jackson Lewis Government Relations practice monitors and tracks all legislation introduced in the New York City Council and State Legislature and advocates for client positions at all levels of government.

Please contact a Jackson Lewis attorney with any questions about this bill and other developments.

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