



**New York State Assembly**

**Sheldon Silver**  
Speaker



# 2013

## ANNUAL REPORT

Committee on  
**Consumer Affairs & Protection**

**Jeffrey Dinowitz**  
Chair





THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

JEFFREY DINOWITZ  
Assemblyman 81<sup>ST</sup> District  
Bronx County

December 15, 2013

CHAIRMAN  
Consumer Affairs & Protection  
Committee  
  
COMMITTEES  
Election Law  
Health  
Judiciary  
  
MEMBER  
Puerto Rican/Hispanic Task Force

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 2013 Annual Report of the Assembly Standing Committee on Consumer Affairs and Protection.

The work accomplished during the 2013 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 prohibiting the sale or distribution of novelty lighters. These lighters often resemble common children's toys and have been implicated in many tragic fires over the past few years.

Several other laws were enacted this year to protect consumers' rights and ensure transparency in the marketplace. Chapter 82 of the Laws of 2013 extends several important provisions that apply to the rental of vehicles, including guaranteeing access to collision damage waivers and requiring clear and concise information relating to the terms of rental agreements. Additionally, several laws were enacted to safeguard consumer health and safety. Chapter 357 of the Laws of 2013 prohibits the sale of DXM (dextromethorphan), a commonly abused ingredient found in over-the-counter cough medicines, to minors without a valid prescription. Chapter 201 of the Laws of 2013 prohibits the sale, distribution, or installation of counterfeit airbags. Counterfeit airbags frequently fail to deploy in the event of an automobile accident and have been determined to be the cause or contributing factor in numerous injuries and fatalities in recent years. Chapter 381 of the Laws of 2013 strengthens New York State's crib safety law by prohibiting the use of unsafe cribs in child care facilities and other non-residential settings and aligns New York State's law with comprehensive federal regulations related to crib safety.

I look forward to the upcoming 2014 legislative year, during which I plan to build upon the foundations established during the 2013 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 citizens.

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

**2013 ANNUAL REPORT**  
**OF THE**  
**NEW YORK STATE ASSEMBLY**  
**STANDING COMMITTEE ON CONSUMER AFFAIRS AND PROTECTION**

**JEFFREY DINOWITZ, CHAIR**

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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. 2013 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.

#### **Protecting Privacy Relating to New York's Membership Campground Law (Chapter 17 of the Laws of 2013, Dinowitz)**

Chapter 383 of the Laws of 2012 allowed purchasers of membership camping contracts to cancel such contracts under certain circumstances. One such circumstance involves cases of alleged domestic violence. This new law removes the ability of campground membership operators to investigate cancellation requests in cases of alleged domestic violence in order to protect the privacy and safety of those making such requests.

#### **Prohibiting Caller ID "Masking" (A.496, Paulin)**

Caller identification, commonly referred to as Caller ID, is a very 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)**

#### **Restricting Employer Access to Private Credit Information (A.7056, Dinowitz)**

There is no objective evidence showing a correlation between an employee's consumer credit report and his or her job performance or tendency to commit fraud. The practice of using consumer credit reports in employment decisions disproportionately affects low-income consumers and minorities who are more likely to have bad credit because of predatory lending, longstanding wealth-inequality, and discrimination. Additionally, studies have indicated a preponderance of credit reporting errors that potentially diminish a consumer's credit score through no fault of their own.

The “Credit Privacy in Employment Act” would prohibit employers, employment agencies, and licensing agencies from using credit report information of an employee or job applicant in connection with or as a criterion for employment decisions related to hiring, termination, promotion, demotion, discipline, compensation, or the terms, conditions, or privileges of employment. The provisions of the bill would not apply if the use of credit report information is required by state or federal law. **(Passed the Assembly)**

### **Prohibiting the Use of Employer Data Reports (A.6790, 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 third parties, such as debt collectors. It is often the case that employees are unaware of such sale or distribution of their payroll information to third parties and have little, if any, means to prevent such proliferation. 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 a third party without written consumer consent in a separate, stand-alone document. The Attorney General and any person injured by a violation of this section would be authorized to bring enforcement actions. **(Passed the Assembly)**

## **B. Improving Business Practices**

### **Extending Optional Vehicle Protections for Rental Car Agreements (Chapter 82 of the Laws of 2013, Morelle)**

Current law allows rental companies to offer optional vehicle protection (OVP), also known as “collision damage waivers,” to consumers. OVP entitles the purchaser to a waiver of claim by the vehicle rental company with regard to virtually any damage to the vehicle, regardless of fault. The provisions of this law were set to expire June 30, 2013. The law extends these provisions until June 30, 2018, and includes several consumer protections, including certain mandatory disclosures, the ability to cancel OVP within 24 hours, and increased penalties for discrimination based on credit card ownership.

### **Prohibiting the Sale of Unsolicited Monuments or Memorials (Chapter 469 of the Laws of 2013, Dinowitz)**

Often, family members of the recently deceased are bombarded with unsolicited offers for memorials or monuments, of which the origin or nature is unclear. This can contribute to a sense of confusion and even lead to the purchase of or contractual obligation for undesired products or services. This law requires that such offers be clearly labeled as solicitations and that they include all pertinent details with regard to the monument or memorial. Additionally, this new

law will require that a contract for a memorial or monument include the country or state of origin of the monument or memorial.

### **Unsolicited Checks (Chapter 467 of the Laws of 2013, Maisel)**

Banks and lending institutions often send consumers unsolicited checks in the mail. These checks become easy targets for mail theft because the intended recipient of these checks is often unaware of these checks until fraud has been committed, leaving them vulnerable to damaged credit and maybe even liable for any stolen funds. This bill would protect consumers from any fraudulent use of such checks.

### **Employment Agencies (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 can be 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 successfully place job-seekers. 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 issued by Public Citizen, 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)**

### **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 a 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)**

### **Cramming/Unauthorized Telephone Charges (A.1795, 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)**

### **Creates the State Office of the Utility Consumer Advocate (A.6239, 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, 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, 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, which would be decided upon by the Public Service Commission. **(Passed the Assembly)**

## **C. Protecting Consumer Health and Safety**

### **Prohibiting the Sale, Distribution, or Installation of Counterfeit Airbags (Chapter 201 of the Laws of 2013, Dinowitz)**

This new law makes it a class A misdemeanor to knowingly make, distribute, sell, or install a counterfeit or non-functional airbag in a vehicle. Airbag systems are highly sophisticated mechanisms, intricately coordinated to provide lifesaving functions. Even 7/1000s of a second can mean the difference between life and death. Fraudulent airbags do not perform to the standard of the original manufacturer's equipment and can result in non-deployment or the discharge of other,

non-lifesaving materials. This law also establishes a civil penalty of up to \$1,000 per violation and outlines the powers of the Attorney General in enforcing this act.

### **Restricts the Sale of Dextromethorphan (DXM) to Minors (Chapter 357 of the Laws of 2013, Jaffee)**

The abuse of Dextromethorphan, commonly called DXM, has become a significant problem among teenagers. DXM is an active ingredient found in many over-the-counter cold medicines and cough suppressants. Because it is available in over-the-counter medicines, many teens are under the impression it is therefore harmless. The reverse is true. Abuse of DXM has been found to cause serious side-effects and even death.

This new law prohibits any retail establishment from selling any product or products containing the active ingredient dextromethorphan to persons under the age of eighteen without a valid prescription. The law also requires proof of legal age to purchase such products and subjects any retail establishment that violates the provisions of this section of law to a fine of \$250.

### **Prohibiting the Sale of Novelty Lighters (Chapter 359 of the Laws of 2013, Dinowitz)**

In recent years, children playing with novelty lighters have caused fires and injuries across the nation. These lighters, which resemble toys, vehicles, animals, and cellphones, pose an unacceptable risk to children and families. In order to address this public safety threat, this law prohibits the distribution or sale of novelty lighters and provides strong penalty and enforcement provisions, including granting law enforcement and state fire prevention investigators the ability to seize lighters offered for sale in violation of the law.

### **Enhancing New York's Crib Safety Law (Chapter 381 of the Laws of 2013, Dinowitz)**

This law conforms New York's crib safety law to recently enacted federal rules by prohibiting the use of certain unsafe cribs in child care facilities or places of public accommodation, such as hotels, motels, inns, and motor courts. The law requires notification to child care facilities and child care facility license and registration applicants of the provisions of the law.

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

When a motor vehicle recall is initiated by a manufacturer, 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 make the repairs required by

the manufacturer's recall, bring the vehicle to an authorized dealer and have the recall satisfied, or 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)**

### **Increasing Product Recall Awareness (A.375, Dinowitz)**

In recent years, hundreds of products designed to protect, educate, and amuse our children have been subject to safety recalls. While these recalls are often publicized in news reports, if care givers happen to skip over an article or report regarding a recall, the lives of their children could be endangered. Fortunately, the United States Consumer Product Safety Commission (CPSC) has established an email alert system that notifies parents or caregivers when a children's product has been recalled. This bill would help to keep New York's children safe from potentially hazardous products by increasing awareness of the CPSC's alert system.

This bill would require primary care physicians to post a notice designed by the Department of Health in conjunction with the Department of State that provides information on how to subscribe to the Consumer Product Safety Commission's email list of recalls and safety news. This notice would be required to be posted in English and any other language spoken by a significant number of people within the community served by the primary care physician. **(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 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)**

### **Labeling Sunscreen Products (A.2727, 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 and storage recommendations. **(Passed the Assembly)**

#### **Moveable Soccer Goal Safety (A.5308-B, Otis)**

Over the 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 could 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. **(Passed the Assembly)**

### **D. Increasing Consumer Recourse**

#### **Victims of Price Gouging (A.311, Dinowitz)**

Price gouging occurs when businesses take unfair advantage of consumers during abnormal market disruptions caused by natural or man-made disasters by charging grossly excessive prices for essential consumer goods and services. Unscrupulous businesses that gouge consumers during difficult times must be held accountable. Currently, only the State Attorney General is empowered to bring legal action against violators of the price gouging statute. This bill would leave the Attorney General's powers intact, but would also permit individual victims of price gouging to sue the price gougers directly. **(Passed the Assembly)**

## **III. HEARINGS AND ROUNDTABLES**

### **A. Hearing on the Accuracy and Use of Credit Reports**

On April 19, 2013, the Committee held a joint public hearing with the Committee on Banks to examine whether credit reporting agencies provide an effective process by which consumers can correct inaccuracies in credit reports, how inaccuracies affect consumers' credit scores, employability, and interest rates, and actions the state can take to improve the accuracy of credit reports. A recent Federal Trade Commission study on credit report accuracy indicated that as many as one in four consumers may have a “material error” in their reports. A consumer's credit

report is used in many different and far-reaching ways, including decisions on loan applications, interest rates, and employment.

Numerous consumer advocates and the Consumer Data Industry Association provided testimony to the Committees. While there was no consensus as to what remedies may be available to consumers at the state level, the witnesses admitted that millions of consumers have errors in their credit reports. In addition, the consumer advocates testified that these errors are difficult to correct and have far-reaching consequences, particularly when a consumer is searching for employment.

## **B. Hearing on the Use of Biotechnology in Foods and its Effects on Consumers**

In recent years, a consumer's ability to know if the food he or she eats contains genetically modified organisms (GMOs) has become a growing focus of discussion. On July 30, 2013, the Committee held a public hearing to examine the impact and legality of state labeling requirements for foods containing GMOs, as proposed by A.3525-A (Rosenthal), and the effects the bill would have if it became law. Members of the Committee heard testimony from consumer and food advocacy groups, traditional and organic farmers, and representatives from retail and biotechnology advocates.

Those who testified in favor of a state-labeling requirement for foods containing GMOs argued that there should be mandatory labels to provide consumers with a better understanding of the foods they purchase. Michael Hansen, a Senior Scientist at Consumers Union, referenced published studies and the virtual lack of independent safety testing on GMO crops, due to intellectual property right protection, as support for requiring labels on GMO food products so consumers and their doctors can identify any problems that may occur. Several witnesses, however, testified against the mandatory labeling requirement. They focused on the lack of any scientific, peer-reviewed studies indicating any harm and the fact that no government agency has conclusively identified the existence of harmful effects. The Committee will take all of the witnesses' testimonies into consideration for this upcoming legislative session.

## **C. Hearing on the Collection, Use, and Distribution of Personal Data**

On November 22, 2013, the Committee held a public hearing to review company privacy policies and data collection efforts and state and federal law relating to the distribution and use of personal consumer data by businesses, digital data brokers, and the state, including assessing the Department of State's (DOS) budgeting allocations to protect consumer privacy. The hearing was held in response to the millions of Americans who have their personal data collected, often unwittingly, on a daily basis. A consumer's online profile, browsing and transaction history, income, demographics, and other personal information are combined to create a complex profile of the individual. In addition, data brokers, who collect and store individualized consumer profiles, sell such profiles to third parties so those third parties can then market products and services to consumers.

Officials from the Department of State (DOS), Attorney General's (AG) office, the industry, and the New York Public Interest Research Group (NYPIRG) provided testimony to the Committee. DOS witnesses testified that they use their allocated budget to educate consumers on privacy issues. The AG testified that existing laws protect consumers' privacy, but that other states have enacted laws offering stronger consumer protections that New York should consider adopting. Industry representatives explained the process of data collection and the benefits that it can provide to consumers. In addition, they provided testimony indicating that many data collection entities have best practices to protect consumers. NYPIRG provided testimony indicating that there need to be additional consumer protections, especially considering the far-reaching impact of certain data collection efforts. The Committee plans to continue the dialogue with government agencies and consumer advocacy groups during the upcoming legislative session.

#### **IV. OUTLOOK AND GOALS FOR 2014**

The 2014 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 2013 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 2013**

|          |          |  |
|----------|----------|--|
| A.309-A  | Dinowitz | Clarifies the requirements associated with the purchase or solicitation of monuments and memorials. ( <b>Chapter 469 of the Laws of 2013</b> )   |
| A.460-A  | Dinowitz | Aligns New York State’s law with comprehensive federal regulations related to prohibiting the use of unsafe cribs in child care facilities and other non-residential settings. ( <b>Chapter 381 of the Laws of 2013</b> )  |
| A.581    | Dinowitz | Amends Chapter 383 of the Laws of 2012 to exclude campground membership operators from investigating cancellation requests in cases of alleged domestic violence in order to protect the privacy and safety of those making such requests. ( <b>Chapter 17 of the Laws of 2013</b> ) |
| A.933-B  | Jaffee   | Prohibits the sale of DXM (dextromethorphan), a commonly abused ingredient in over-the-counter cough medicines, to minors without a valid prescription. ( <b>Chapter 357 of the Laws of 2013</b> )   |
| A.1011-A | Dinowitz | Prohibits the sale or distribution of novelty lighters. ( <b>Chapter 359 of the Laws of 2013</b> )   |
| A.3601   | Maisel   | Prevents fraud resulting from unsolicited convenience checks. ( <b>Chapter 467 of the Laws of 2013</b> )   |
| A.6378-B | Dinowitz | Prohibits the sale, distribution, or installation of counterfeit airbags. ( <b>Chapter 201 of the Laws of 2013</b> )   |
| A.7819   | Morelle  | Extends the provisions related to rental vehicle protections, including collision damage waivers. ( <b>Chapter 82 of the Laws of 2013</b> )  |

## APPENDIX B

### 2013 BILLS PASSED BY THE ASSEMBLY

|          |            |   |
|----------|------------|---|
| A.311    | Dinowitz   | Would create a private right of action for unlawful price gouging for injunctive relief and recovery of actual damages or \$1000 whichever is greater.  |
| A.374    | Dinowitz   | Would require debt collectors to inform debtors that written communications are available in large print format.  |
| A.375    | Dinowitz   | Would require primary care physicians to post information detailing how parents or guardians of children can subscribe to the US Consumer Product Safety Commission's e-mail subscription list.   |
| 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.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.1441   | Zebrowski  | Would authorize the Attorney General to bring an action for violation of the prohibitions concerning unlawful selling practices.  |
| A.1795   | 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.2727   | Weisenberg | Would require sunscreen products to be labeled with expiration dates and storage recommendations.   |
| A.3601   | Maisel     | Would prohibit the unsolicited mailing of convenience checks to consumers without express consent.  |
| 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.5308-B | Otis       | Would require compliance with the United States consumer product safety commission's guidelines for moveable soccer goal safety.   |
| A.6239   | 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. |
| 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   | 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   | Braunstein | Would prohibit consumer reporting agencies from selling or reselling, offering for sale or resale, or distributing employment data reports.  |
| A.7056   | Dinowitz   | Would enact the "credit privacy in employment act" to prohibit the use of credit information in hiring and employment determinations.  |
| A.7638   | Moya       | Would prohibit employment agencies from charging job seekers a fee for "A" or "A-1" class employment without a contract for employment.  |

APPENDIX C

2013 SUMMARY OF ACTION ON ALL BILLS REFERRED TO  
THE ASSEMBLY COMMITTEE ON CONSUMER AFFAIRS AND PROTECTION

| <b>Final Disposition of Bills</b>                      | <b>Assembly Bills</b> | <b>Senate Bills</b> | <b>Total</b> |
|--|-----------------------|---------------------|--------------|
| <b><u>Bills Reported With or Without Amendment</u></b> |                       |                     |              |
| To Floor; Not Returning to Committee                   | 3                     |                     | 3            |
| To Floor; Recommitted and Died                         | 0                     |                     | 0            |
| To Ways and Means                                      | 4                     |                     | 4            |
| To Codes   | 50                    |                     | 50           |
| To Rules   | 2                     |                     | 2            |
| To Judiciary   | 0                     |                     | 0            |
| <b>Total</b>   | <b>59</b>             |                     | <b>59</b>    |
|  |                       |                     |              |
| <b><u>Bills Having Committee Reference Changed</u></b> |                       |                     |              |
| To Environmental Conservation                          | 1                     |                     | 1            |
| <b>Total</b>   | <b>1</b>              |                     | <b>1</b>     |
|  |                       |                     |              |
| <b><u>Senate Bills Substituted or Recalled</u></b>     |                       |                     |              |
| Substituted  |                       | 0                   | 0            |
| Recalled   |                       | 1                   | 1            |
| <b>Total</b>   |                       | <b>1</b>            | <b>1</b>     |
|  |                       |                     |              |
| Bills Defeated in Committee                            | 1                     | 0                   | 1            |
| Bills Held in Committee with a Roll-Call Vote          | 4                     | 0                   | 4            |
| Bills Never Reported, Held in Committee                | 128                   | 6                   | 134          |
| Bills Having Enacting Clause Stricken                  | 0                     | 0                   | 0            |
| Motions to Discharge Lost                              | 0                     | 0                   | 0            |
| <b>Total Bills in Committee</b>                        | <b>194</b>            | <b>6</b>            | <b>200</b>   |
|  |                       |                     |              |
| <b>Total Number of Committee Meetings Held</b>         | <b>10</b>             |                     |              |