

# Committee on Consumer Affairs and Protection

Carl E. Heastie, Speaker • Jeffrey Dinowitz, Chair

## Message from the Chair



Dear Friend,

I am pleased to write to you an update from the Assembly Committee on Consumer Affairs and Protection. The 2015 Legislative Session has come to an end and enclosed is a brief update on the business of the committee, as well as some information that may be useful during the summer months.

In 2015, the Committee and I focused on legislation that includes: requiring safety warning labels on sugar-sweetened beverages, which was the subject of a public hearing; strengthening the State's gift card laws; and providing stronger protections for job seekers using employment agencies. You will find summaries of these bills, and some others the Committee acted upon during the year, in this newsletter. Legislation that has passed the Legislature will soon be sent to the Governor for his consideration.

As we all look forward to a beautiful summer, please also find some information I have included that I feel can be of use to you and yours to keep everyone safe and sound during the hot summer months.

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, NY 12223  
1-800-697-1220  
[www.consumer.state.ny.us](http://www.consumer.state.ny.us)

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

### NYS Attorney General

The Capitol  
Albany, NY 12224  
1-800-771-7755  
[www.ag.ny.gov](http://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](http://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, IA 52244  
1-855-411-2372

[www.consumerfinance.gov](http://www.consumerfinance.gov)

*The Consumer Financial Protection Bureau is the newest federal consumer protection agency and its focus is on improving 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 Summary

### A.180 (Dinowitz)

This bill would create the State Office of the Utility Consumer Advocate to serve as an independent advocate and appear on behalf of consumers in proceedings concerning rates, terms, and conditions of utility service.

(Passed Assembly)

### A.617-A (Rosenthal)

This bill would require the labeling of genetically engineered foods and other consumable products made from or containing genetically modified organisms.

(Reported to Assembly Codes Committee)

### A.2320-B (Dinowitz)

This bill, which was the subject of a hearing held by the Committee (see insert at bottom right), would require a label on sugar-sweetened beverage containers, machines that dispense such beverages, and at locations serving such beverages indicating that drinking beverages with added sugar contributes to obesity, diabetes, and tooth decay.

(Reported to Assembly Codes Committee)

### A.2372 (Dinowitz)

This bill would prohibit employers from making employment decisions, such as hiring, termination, compensation, promotion, demotion, or employee disciplinary action, based on an individual's credit history.

(Reported to Assembly Floor)

### A.3702 (Moya)

This bill would protect job applicants seeking employment through the use of employment agencies by addressing several unscrupulous business practices, ending the charging of advance fees, and requiring written terms and conditions of employment.

(Passed Assembly)

### A.6731 (Crespo)

This bill would add certain medicines to the list of goods and services that could be subject to price gouging, acting as a deterrent for any person or retailer from selling a drug that is subject to a shortage at an unconscionably excessive price.

(Passed Assembly)

## Legislative Highlight

One of the lesser-known benefits of the federal Credit Card Accountability Responsibility and Disclosure Act of 2009, better known as the Credit CARD Act of 2009, is the inclusion of several consumer protections relating to gift cards. These protections include requiring disclosure of fees, restricting dormancy or non-use fees until after twelve months of inactivity, and prohibiting gift cards from expiring for at least five years.

Gift cards come in many forms, and it is important to note the differences between them because the law treats them differently. For example, general use prepaid cards are capable of being used at multiple, unaffiliated merchants, and often have a credit card brand associated with them. Another example is traditional gift cards, which consumers are likely to be most familiar with, and they are usable only at a single merchant and often do not have a credit card brand.

In recognition of the need for stronger consumer protections as they relate to gift cards and general use prepaid cards, the Assembly has passed legislation (A.7610-B, Dinowitz) that would prohibit dormancy, inactivity, and service fees for traditional gift cards; however, a fee may be charged for the replacement of a lost, stolen, or destroyed gift card. With respect to general use prepaid cards, the legislation prohibits retroactive fees from being assessed against the balance.

(Passed Assembly)

## Sugary Beverage Warning Label Hearing

On April 13, 2015, the Committee held a joint public hearing with the Assembly Committee on Health to hear testimony on whether to require manufacturers of sugar-sweetened beverages to place a safety warning on the containers of such beverages and in places where such beverages are served, as proposed by Assembly bill 2320-B (Dinowitz). While there is certainly more than one cause for the dramatic increase in the prevalence of obesity in the state over the past 30 years, 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. Much of these costs are paid publicly through Medicare and Medicaid programs, putting a strain on states' limited resources.

Numerous public health advocates, medical practitioners and researchers, as well as representatives of the business community provided testimony to the Committees. Those who testified in favor of a safety warning label for sugar-sweetened beverages argued that such labels would help increase public awareness of the health consequences related to the consumption of excess calories, especially calories from added sugars. Representatives from the New York City Department of Health testified that sugar-sweetened beverages are the largest single source of added sugar in the American diet, contain almost no

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Members of the Assembly Committee on Consumer Affairs and Protection listen to testimony in favor of A.2320-B.

## Sugary Beverage Warning Label Hearing

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nutritional value, and are linked to numerous health problems that take a human toll by reducing consumers' quality of life, productivity, and earning potential. Witnesses that testified against the labeling requirement stated that this issue requires a holistic approach to public health, including the importance of maintaining a healthy, balanced diet and the need for exercise. In addition, they contended that warning labels on sugar-sweetened beverages might be ineffective to address adverse health outcomes, particularly since sugar intake from sugar-sweetened beverages decreased by 37 percent in the U.S. between 1999 and 2008 whereas the incidence of Type 2 diabetes still increased. As a result of the hearing, the Committees re-examined A.2320-B, made several amendments to address certain concerns raised, and the Committees continue to maintain an open dialogue with many of those witnesses who testified at the hearing.

*While there is certainly more than one cause for the dramatic increase in the prevalence of obesity in the state over the past 30 years, many people believe that sugar-sweetened beverages are a unique contributor to excess caloric consumption.*

## Beware the Dangers of Furniture Tipping Over

According to a 2012 report issued by the U.S. Consumer Product Safety Commission (CPSC), a child dies every two weeks from furniture tip-over accidents. Data that is more recent indicates that a child visits an emergency room every 24 minutes because of a tip-over incident. These accidents largely involve television sets and other pieces of furniture that are improperly secured or destabilized by an unwitting child.

Recognizing the need to address this issue, the Assembly has passed legislation (A.7018, Dinowitz) that would require the Consumer Protection Division of New York's Department of State to develop a public-awareness campaign relating to the dangers of furniture tip-overs. Both houses of the Legislature have taken action on this important issue, and a bill will be sent to the Governor for his consideration later this year.

In the meantime, review some recommendations offered by the CPSC to help prevent tip-over tragedies (see column at right). In addition, Please visit [www.anchorit.gov](http://www.anchorit.gov) or contact my office for additional information on this issue, and stay tuned for an update on this legislation.

The following safety measures should be performed in homes where children live or visit:

- Buy and install low-cost anchoring devices to prevent TVs, dressers, bookcases, or other furniture from tipping.
- Place TVs on a sturdy, low base and push them back as far as possible, particularly if anchoring is not possible.
- Keep remote controls, toys, and other items that might attract children off TV stands or furniture.
- Keep TV and/or cable cords out of reach of children.
- Make sure freestanding kitchen ranges and stoves are installed with anti-tip brackets.
- Supervise children in rooms where these safety measures have not been followed.

## Swimming Safety Tips

On hot summer days, a swim in a pool or another body of water is most refreshing. However, it is important to keep in mind simple swimming safety tips that will ensure you and your family will remain safe while enjoying the cool water:

- Stay close, be alert, and watch children in and around open waters. Never leave children unattended and be sure you are not reading, texting, using a cellphone, or otherwise distracted if you are the designated water watcher.
- To avoid injuries, keep children away from pool drains, pipes, and other openings and have or

know where to locate lifesaving equipment such as life rings, floats, or a reaching pole. Make sure these are available and easily accessible.

- Learn how to perform CPR on children and adults and update those skills regularly. Understand the basics of life-saving so that you can assist, if necessary, in a pool or open water emergency.
- Have a first-aid kit handy to treat any injuries.

Visit [www.poolsafely.gov](http://www.poolsafely.gov) for additional tips relating to pools and spa safety.

## Farmers' Markets

Farmers' Markets are excellent opportunities for consumers to purchase the freshest, farm products from local farmers and to interact with friends and neighbors in their community. Most of these farms are small, family-owned businesses, which mean that your regular purchases of fresh fruits, vegetables, and even eggs and milk goes to support communities in various parts of New York.

In addition, consumers should be aware that the New York State Women, Infants and Children Program (WIC) and the New York State Farmers' Market Wireless Electronic Benefit Transfer Program (EBT) enables participants enrolled in such programs to buy produce from farmers markets. Locate your nearest farmers market and find out about all that there is to offer.

New York State Assembly, Albany, New York 12248

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2015 Legislative Update from the New York State Assembly

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## Committee on Consumer Affairs and Protection

Assemblyman Jeffrey Dinowitz, Chair