



S.6414 (Comrie) / A.2495-A (Niou)

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BILL S.6414 (Comrie) / A.2495-A (Niou)
SUBJECT Deceptive Business Practices
DATE May 25, 2021
OPPOSE

The Business Council strongly opposes S.6414 (Comrie) / A.2495-A (Niou), which would greatly expand the consumer protection deceptive acts and practices section of the general business law. While the bill claims to aid small business, in truth, the overly broad legislation would lead to a needless spike in the number of meritless lawsuits against businesses of all sizes in our already overly litigious state and put every single business that does business with the public at needless risk of frivolous litigation.

This bill would greatly expand the law to include “unfair” and “abusive” acts or practices that are wholly based upon subjective conjectures. Moreover, it imbues third parties and organizations with statutory standing to sue to commence, upon their own motion, class actions for actual, statutory and/or punitive damages. It would also increase statutory damages from \$50 to \$1,000 per violation. Finally, it mandates that all courts of competent jurisdiction award attorney’s fee and costs to a prevailing plaintiff.

This bill is overly broad and supplants the discretion of the Office of Attorney General, currently authorized to commence an action on behalf of the People to enjoin such acts, with that of trial lawyers who will greatly profit from such suits. Coupling these new and expanded “unfair,” “deceptive” and “abusive” act or practices provisions, with the greatly expanded standing to sue provisions, and mandated payments of attorney’s fees and all costs of litigation to a prevailing plaintiff, is simply a recipe for disaster in the form of endless litigation.

We recognize and support the protecting of consumers from unfair practices. However, the broadness of this bill will not protect consumers, but instead will unquestionably harm New York residents. This bill will lead to numerous frivolous lawsuits with the potential for excessive punitive damages, increased fees and higher court costs – all which will ultimately lead to fewer jobs and higher costs of goods and services for all New Yorkers. The bill presents a particularly difficult strain on hard working small businesses, who run on tiny

margins and simply can't contain the expense of frivolous suits, especially now, as they struggle to revive themselves amid the economic crisis caused by the pandemic.

A policy that trades litigation windfalls for the few for higher costs for the many is simply bad public policy. The dangers of this bill far outweigh any benefit and we strongly urge the Legislature to reject S.6414 (Comrie) / A.2495-A (Niou).