

New York State Assembly
Carl E. Heastie
Speaker

Committee on
Consumer Affairs and Protection

Brian Kavanagh
Chair

CHAIR
Committee on Consumer Affairs and Protection

MEMBER
Committee on Housing
Committee on Environmental Conservation
Committee on Energy
Committee on Election
Law
Puerto Rican / Hispanic Task Force

REPRESENTING
The Lower East Side, Union Square, Gramercy
Stuyvesant Town, Peter Cooper Village
Waterside Plaza, East Midtown Plaza
Kips Bay, Murray Hill, Tudor City



OFFICE OF
**NEW YORK STATE
ASSEMBLYMEMBER
BRIAN KAVANAGH
74TH DISTRICT**

DISTRICT OFFICE
250 Broadway, Suite 2234
New York, New York 10007
Interim Office
212-979-9696
FAX 212-979-0594

CAPITAL OFFICE
Legislative Office Building, Suite 941
Albany, New York 12248
518-455-5506
FAX 518-455-4801

EMAIL
kavanaghb@nyassembly.gov

Honorable Carl Heastie
Speaker of the Assembly
State Capitol, Room 349
Albany, New York 12248

December 4, 2017

Dear Speaker Heastie:

It is my pleasure to forward to you the 2017 Annual Report of the Assembly Standing Committee on Consumer Affairs and Protection.

The work accomplished during the 2017 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 implementing new sanitation standards for the storage and transportation of used bedding, providing clarity regarding theatrical employment contracts, and requiring automobile brokers to be licensed and bonded.

During the upcoming 2018 legislative year, the Committee plans to build upon the foundations established during the 2017 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 residents.

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,

Brian Kavanagh, Chair

2017 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON CONSUMER AFFAIRS AND PROTECTION

BRIAN KAVANAGH, CHAIR

MAJORITY

Peter J. Abbate, Jr.
Dan Quart
David Buchwald
Michaelle Solages
Jo Anne Simon
Erik Dilan
Rebecca Seawright
Nily Rozic
Yuh-Line Niou
Stacey Pheffer Amato
Jaime Williams

MINORITY

Anthony Palumbo,
Ranking Minority Member
David G. McDonough
Thomas McKeivitt
Daniel Stec

COMMITTEE STAFF

Aaron Suggs, Assistant Secretary for Program and Policy
Brian Williams, Legislative Analyst
Kendall Jacobsen, Legislative Analyst
Teri Kleinmann, Associate Counsel
Dan Gordon, Committee Assistant
Andrew Hendrickson, Committee Clerk
Dawn Fowler, Program and Counsel Secretary

Table of Contents

I. COMMITTEE RESPONSIBILITIES AND GOALS	1
II. 2017 COMMITTEE ACCOMPLISHMENTS	2
A. Protecting Personal Privacy	2
Regulating Voice Recognition Features in Internet-Connected Devices	2
Prohibiting the Sale of Consumer Employment Information	2
Destruction of Personal Information Stored in Multifunction Devices	2
B. Improving Business Practices	3
Wireless Service Contracts	3
Unordered Goods	3
Unauthorized Telephone Charges ("Cramming")	4
Unconscionable Terms in Standard Form Contracts	4
Clear Disclosure of the Expiration Date of Prepaid Cellular Minutes	4
Home Improvement Contract Protections	5
Magazine Subscription Telephone Numbers	5
Prohibiting Mandatory Arbitration Agreements	5
Presentation of Mandatory Arbitration Clauses in Large Print	6
Disclosure of Mandatory Arbitration Clauses in Consumer Contracts	6
Prohibiting Use of Credit History in Hiring/Licensing Determination	7
Prohibiting Non-Disparagement Clauses in Consumer Contracts	7
Requiring Telemarketers to Disclose that a Call is Being Recorded	7
Requiring Automobile Brokers to be Licensed and Bonded	8
Prohibiting Businesses from Pricing on the Basis of Gender	8
Extending Provisions Relating to Pre-Need Funeral Services	8
Creating the State Office of the Utility Consumer Advocate	9
Increasing Liability for Predatory Auto Loan Assignees	9
Providing Clarity for "Class C" Theatrical Employment Contracts	9
C. Protecting Consumer Health and Safety	10
Prohibition of the Sale of Certain Unsafe Baby Crib Bumper Pads	10
Warning Labels for Decorative Lighting Products Containing Lead	10
Sanitation Requirements for the Sale of Used Mattresses and Bedding	11
Requiring Persons Offering Weight Loss Services to Provide Notice of Risks	11
Price Gouging of Prescription Drugs	11
III. HEARINGS AND ROUNDTABLES	12
A. Hearing on the Practices of the Online Lending Industry	12
IV. OUTLOOK AND GOALS FOR 2018	12
<u>APPENDIX A</u>	13
<u>APPENDIX B</u>	14
<u>APPENDIX C</u>	16

I. Committee Responsibilities and Goals

The Assembly Consumer Affairs and Protection Committee (the “Committee”) is responsible for developing legislation to protect consumers’ rights and ensure 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 Law, Personal Property Law, parts of the Agriculture and Markets Law and Education Law. 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 to 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 Members; Agriculture; and Insurance.

II. 2017 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.

Regulating Voice Recognition Features in Internet-Connected Devices (A.724-A, Gunther)

There have been several recent instances of consumers' voices being recorded by various internet-connected devices such as cell phones, smart TVs, personal assistant devices, children's toys, and other devices equipped with voice recognition software, and then sold or used in advertisements or promotional materials without the consumers' consent.

This bill would protect consumers' privacy by prohibiting this practice and requiring products employing voice recognition software to prominently inform the consumer that their voice may be recorded and stored. **(Passed the Assembly)**

Prohibiting the Sale of Consumer Employment Information (A.859-A, Braunstein)

There have been instances of consumer credit reporting agencies selling employment records, including detailed health insurance and payroll information, to third parties such as debt collectors and other financial service corporations, often without employees' knowledge or consent. This is an invasion of consumers' and employees' privacy.

This bill would prohibit the sale of consumer data and employment information without express written consent. **(Passed the Assembly)**

Destruction of Personal Information Stored in Multifunction Devices (A.2856, Peoples-Stokes)

With identity theft becoming a far more common crime, it is more important than ever to protect a consumer's private information held by a business. With technology advancing as rapidly as it has in the past decade, so too has the ability of information to be stored. Multifunction copiers can now store the information of tens of thousands of consumers within their memory and it has been found that this information is not being destroyed properly when a business disposes of their copying systems.

This bill would regulate all business entities that own or possess a copier, facsimile device or multifunction device that uses data storage to store, reproduce, transmit or receive data or images that may contain personal information. Businesses with these devices would be required to secure the data either by using encryption software or by destroying the data through physical or technological means prior to relinquishing ownership of the device. This would also apply to companies that lease these devices to businesses and require them to follow the same information protection guidelines. **(Passed the Assembly)**

B. Improving Business Practices

The Assembly continues to take proactive measures to protect the rights of consumers in their interactions with corporations. The Committee makes it a priority to advance legislation that prohibits predatory or unscrupulous behavior, ensures that consumers know their rights and are not being victimized by unfair contracts, and promotes an honest and open business climate.

Wireless Service Contracts (A.946, Rozic)

Wireless telephone companies have created consumer-friendly contract options such as “shared minutes” and “family plans” that allow consumers to save money by consolidating costs. However, some consumers remain subject to high fees when trying to cancel contracts due to emergencies. For instance, victims of domestic violence who share a telephone contract with their batterer are often left with enormous fees for early contract cancellation. Providing an escape clause in such shared minutes and family plan contracts for victims of domestic violence is good public policy and is consistent with the committee’s support of domestic violence victims. This bill would allow victims of domestic violence who are under a shared or family contract with their batterer to opt out of such plans without penalty. **(Passed the Assembly)**

Unordered Goods (A.1401, 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 that 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 an alleged 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)**

Unauthorized Telephone Charges (“Cramming”) (A.2426, Skartados)

This bill would prohibit telephone corporations from permitting the practice of cramming. “Cramming” is defined in the bill 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 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)**

Unconscionable Terms in Standard Form Contracts (A.2855, Steck)

Certain provisions that can be included in standard form contracts are demonstrably unfair to consumers, particularly those requiring consumers to waive certain legal rights, settle disputes in inconvenient venues, or pay exorbitant fees to bring claims.

This bill would define these contract terms as unconscionable, meaning that they are so unfair to consumers as to prevent them from taking advantage of their full legal rights, and would stipulate that the inclusion of those terms in a contract constitutes an unfair and deceptive trade practice. The bill would protect consumers from predatory contract practices and seek to ensure that contracts between consumers and businesses are fair, open, and honest. **(Passed the Assembly)**

Clear Disclosure of the Expiration Date of Prepaid Cellular Minutes (A.2892-A, Dilan)

Although current law requires the disclosure of the expiration date of cellular minutes purchased with prepaid cards, the date is often included in very small print on the back of a card, making it difficult for consumers to ascertain.

Consumers have a right to the clear and conspicuous disclosure of the basic terms of the minutes they are purchasing. This bill would require the expiration date to be printed on the face of the prepaid card in bold, large-type font. **(Passed the Assembly)**

Home Improvement Contract Protections (A.3246-A, Brindisi)

It is important that consumers who have become victims of a natural disaster be able to repair their homes in a safe and affordable manner. There have been reported instances of bad actors, posing as contractors, taking advantage of homeowners who have fallen victim to a disaster during the time when they need help and good guidance the most.

This bill would amend the General Business Law relating to home improvement contractors by requiring contractors to include information about their insurance coverage in contracts for service. The bill would also ban contractors from dealing with a consumer's insurance company on behalf of the consumer, and amend the rules contractors must follow when a consumer wishes to cancel a contract when they will not be receiving insurance coverage for the project. The bill would ban contractors from charging a down payment of more than 50 percent to begin a project, prohibit them from limiting payment types, and ban contractors from abandoning a project or altering project plans without the owner's consent. Finally, the bill would require that home improvement contractors operating a business in a municipality that does not have existing insurance requirements have a minimum standardized amount of damage and worker's compensation insurance. **(Passed the Assembly)**

Prohibiting Mandatory Arbitration Agreements in Consumer/Employment Contracts (A.5240, Dinowitz)

As mandatory arbitration clauses become more and more commonplace, the Assembly has taken several different approaches to protecting the rights of consumers when entering into contracts for employment or for consumer goods or services. The two bills below focus primarily on clear disclosure of the presence of a mandatory arbitration clause in a contract. However, questions continue to be raised about the fairness of mandatory arbitration clauses, specifically whether they are inherently biased in favor of businesses at the expense of consumers. Private arbitration companies have a financial incentive to rule in favor of the business that is paying for their services. Studies have shown that private arbiters rule in favor of businesses in over 90 percent of cases.

Given the fundamental questions about the fairness of the arbitration process, this bill would prohibit mandatory arbitration clauses in consumer contracts, certain employment contracts, and insurance contracts in any instance where it is not required and governed by federal law. This would allow more consumers and employees to have their grievances addressed in a more equitable and less biased manner. **(On Third Reading)**

Presentation of Mandatory Arbitration Clauses in Large Print (A.5246, Dinowitz)

It is now commonplace for consumers to sign contracts for goods or services that contain mandatory and in many cases nonnegotiable arbitration clauses. These clauses take away the right of a consumer to dispute a claim in a court of law and instead move any dispute with the business to an arbitration proceeding. In many cases, mandatory arbitration clauses are buried in the fine print of contracts and go unnoticed by the average consumer. It is important that consumers are made aware of the effects of signing an arbitration clause. This legislation is intended to ensure that all New Yorkers are capable of making informed decisions regarding how they will be able to dispute a claim when signing contracts for goods and services.

This bill would require any contract containing a mandatory arbitration clause in this state to present the arbitration clause in large print to the consumer. Any business that violates this proposed legislation would be subject to a civil penalty not to exceed \$250 for a first offense and a civil penalty not to exceed \$500 for subsequent offenses. This legislation is an attempt to raise awareness of mandatory arbitration clauses to consumers of this state who may not know that they are signing away their right to a fair court proceeding. **(On Third Reading)**

Disclosure of Mandatory Arbitration Clauses in Consumer Contracts (A.5248, Dinowitz)

Mandatory arbitration clauses have both costs and benefits to society but many consumers will admit that they do not fully understand the process of arbitration. In fact, arbitration has become so common in contracts that many consumers have signed an arbitration clause without knowing that they have signed away their right to a court proceeding. It is important that consumers are made aware of the effects of signing an arbitration clause. The intention of this legislation is to ensure that all New Yorkers are capable of making informed decisions regarding how they will be able to dispute a claim when signing contracts for goods and services.

This bill would require that when a contract containing a mandatory arbitration clause is presented to a consumer either in person, through the mail, or electronically, that the representative of the company supervising the execution of the contract disclose to the consumer that the contract contains a mandatory arbitration clause. The business would also be required to explain to a consumer what a mandatory arbitration clause is in the event that the consumer asks for an explanation. This is an attempt to raise awareness of mandatory arbitration clauses to consumers of this state who may not know that they are signing away their right to a fair court proceeding. **(On Third Reading)**

Prohibiting Use of Credit History in Hiring/Licensing Determinations (A.5310-A, Dinowitz)

There is little evidence to suggest that a consumer's credit history has any correlation with their job performance. A poor credit history can be the result of many different factors, such as economic downturn, unexpected medical bills, high housing costs, or other issues completely unrelated to the consumer's job performance or capabilities. Additionally, a recent Federal Trade Commission (FTC) study indicated that as many as one in four consumers may have a "material error" in their credit reports, which could put them in a lower tier and decrease their chances of getting hired or promoted, causing even more economic hardship.

This bill would prohibit an employer from using, and a consumer credit reporting agency from disclosing, a consumer's credit history for the purposes of making hiring or licensing determinations. This bill would provide a significant consumer protection that would remove a barrier to employment for many New Yorkers. **(On Third Reading)**

Prohibiting Non-Disparagement Clauses in Consumer Contracts (A.5718-B, Skoufis)

There have recently been instances where companies have sued consumers after the consumers wrote disparaging online reviews of the company's product, in violation of a non-disparagement clause that the consumer was forced to sign, whether knowingly or unknowingly. Consumers should not be forced to sign away their ability to complain about a service or product. Negative reviews of products help consumers make informed decisions about which product to purchase.

This bill would make it unlawful to include non-disparagement clauses in contracts for consumer goods or services, and to threaten or seek to enforce such a clause. It would make violators of this prohibition subject to a civil penalty of not more than \$500 for the first violation, and not more than \$1,000 for any subsequent violation. It would also impose a civil penalty not to exceed \$5,000 for seeking to enforce a non-disparagement agreement. **(Passed the Assembly)**

Requiring Telemarketers to Disclose that a Call is Being Recorded (A.6424, Mayer)

This bill would require telemarketers to inform consumers that a call they are participating in is being recorded. Recently, there have been a number of phone scams in which callers record a person's voice and then later use that recording to deceive the consumer into paying for goods and services he or she did not agree to buy.

By requiring legitimate telemarketing calls to inform consumers that the call is being recorded, consumers will have greater opportunity to decline to speak further and end the call. Consumers deserve to be able make an informed decision about whether to consent to the recording of their voice. **(Signed Chapter 239)**

Requiring Automobile Brokers to be Licensed and Bonded (A.6884-B, Abbate)

This bill requires automobile brokers to register with and obtain a license from the Commissioner of Motor Vehicles prior to operation in New York State. It would also require automobile brokers to obtain and continue in effect a surety bond of \$125,000. Additionally, it would allow the Attorney General to investigate non-licensed auto brokers and enforce violations.

The intent of the bill is to reduce consumer confusion regarding whether an auto broker is an authorized representative of an auto manufacturer. Auto brokers are not currently required to be licensed by New York State, although they can be significantly involved in facilitating the purchase or lease of an automobile and the delivery of the automobile to the customer. The bill seeks to reduce confusion, enhance protections and ensure better outcomes for consumers, and deter unscrupulous auto brokers from engaging in unlawful practices. **(Signed Chapter 477)**

Prohibiting Businesses from Pricing on the Basis of Gender (A.7165-A, Rozic)

A recent study by the New York City Department of Consumer Affairs found that on average, products for women cost seven percent more than similar products for men. The results of the study indicate that women spend significantly more money over the course of their lifetimes due to discriminatory pricing practices on products marketed towards women. It is inherently unfair to charge more for a product simply because it is a different color or it is marketed towards women, even though the materials are the same and it does not cost the business any more to produce.

This bill would attempt to curtail this practice by prohibiting businesses from charging a different price for substantially similar products, which share the same brand, same functional components, and ninety percent of the same materials or ingredients. This would go a long way towards ending a regressive policy that harms women and creating a level playing field for all genders. **(On Third Reading)**

Extending Provisions Relating to Pre-Need Funeral Services (A.7245, Kavanagh)

This bill would extend provisions of the General Business Law, the Public Health Law, and the Insurance Law prohibiting funeral directors, undertakers, and embalmers from accepting any consideration from an insurer to sell, offer, or promote pre-need funeral insurance and prohibiting insurers from paying such consideration. The bill extends such laws until June 30, 2022.

The bill would ensure that New York's funeral law will continue to protect consumers from predatory policies at a time when they are most vulnerable and grieving. **(Signed Chapter 32)**

Creating the State Office of the Utility Consumer Advocate (A.7293, Dinowitz)

More than 40 states have an independent state agency that represents the interests of residential utility customers. New York is one of a 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 in the 2012 report year, 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 in judicial review proceedings concerning rates and conditions of public service utilities. **(On Third Reading)**

Increasing Liability for Predatory Auto Loan Assignees (A.8098, Kavanagh)

There have been significant reports of abusive and predatory auto dealerships creating fraudulent loan applications for consumers, which then leave consumers stuck with auto loans they cannot afford. Consumers are then forced to sue these dealerships, which is an expensive and time-consuming process which is only exacerbated by the fact that such dealerships often close their doors and default on their obligations, leaving consumers with little recourse.

Banks and lenders are often complicit in this process, as they are heavily involved in creating the terms of the contracts and act as the loan assignees. This bill would make attorney's fees exclusive of the normal cap on assignee liability, meaning that consumers would have more ability to secure access to legal counsel, and lenders would have to think twice about working with predatory dealerships. **(Signed Chapter 487)**

Providing Clarity for "Class C" Theatrical Employment Contracts (A.8257-A, Moya)

This bill would help provide clarity for theatrical employees by requiring certain information to be included in the blank contracts given to the employees prior to their auditions. The bill would require contracts to include the gross commission or fees to be paid by the artist to the employment agency, the employment agency's contact information, and other terms and conditions. It would also require the employment agency to provide the artist with certain information about their audition, including location, anticipated rate of compensation, and services to be performed. **(Signed Chapter 496)**

C. Protecting Consumer Health and Safety

It is crucial that the State of New York hold businesses to high standards regarding the safety of their products and services and continue to make every effort to educate the public on how best to protect their health. The Committee continues to promote measures to require businesses to sell safe products, prohibit unreasonably high prices for lifesaving medicine, and provide information to consumers that can help them to make informed choices.

Prohibition of the Sale of Certain Unsafe Baby Crib Bumper Pads (A.4151-A, Paulin)

Certain types of “non-permeable” baby crib bumper pads can actually lead to the accidental suffocation of infants. A recent study by the Journal of Pediatrics claims that as many as 77 children have died as a result of defective bumper pads since 1985 and many other children have been hospitalized. There are currently no federal regulations pertaining to the safety of these items and the problem has progressed to the point where some pediatricians are discouraging the use of crib bumper pads.

This bill attempts to ban the sale of certain unsafe non-permeable baby crib bumper pads and restrict their use in certain settings including childcare facilities. The bill is designed to prevent the deaths and serious injuries to infants that have been attributed to the use of non-permeable defective crib bumper pads that are known to inadvertently suffocate children. The Office of Children and Family Services will promulgate rules and regulations regarding the enforcement of the ban on crib bumper pads in childcare facilities. A court may impose a civil penalty of not more than \$500 for each violation. **(Passed Assembly)**

Warning Labels for Decorative Lighting Products Containing Lead (A.4345, Galef)

Several independent studies have shown that certain decorative and seasonal holiday lights can contain more than 30 times the levels of lead permitted to be contained in children’s products. Exposure to lead has repeatedly been proven to cause serious health problems, especially involving the brain, central nervous system, heart, and kidneys. Excessive lead exposure can cause depression and infertility and can slow developmental growth.

Lead exposure is particularly harmful to young children, who are prone to increased exposure due to their curiosity and their penchant to put non-food items in their mouths. Parents should be made aware of the risk that some decorative holiday lights can pose to their families. This bill would require such products to come with a warning label. **(Passed the Assembly)**

Sanitation Requirements for the Sale of Used Mattresses and Bedding (A.5227-A, Dinowitz)

Infestations of bed bugs have become more and more common throughout the nation, including in New York, in the past few years. Studies have found that many infestations spread from one consumer to another through the sale of used mattresses and bedding materials.

This bill would prohibit used bedding from being stored or sold with new bedding unless such used bedding has been sanitized in accordance with regulations to be promulgated by the Department of State (DOS). Under the bill, used mattresses would not be allowed to be transported with new bedding unless such used bedding has been sanitized pursuant to such DOS regulations or is enclosed in non-permeable plastic film or similar material designed to prevent the passage of contaminants. The bill would prohibit shipping bags or similar products from being used as the required non-permeable cover. **(Signed Chapter 413)**

Requiring Persons Offering Weight Loss Services to Provide Notice of Risks (A.6767, Cook)

Products and services designed to induce rapid weight loss can often be unreliable, ineffective, and even unsafe. Expert dietitians consistently recommend making long-term adjustments to diet and exercise regimens as a healthier alternative to programs promising rapid weight loss through nutritional supplements, crash diets, or other methods. Consumers should be made aware of the risks of rapid weight loss programs prior to spending money on expensive diet programs, in order to make an informed choice as to the programs' effectiveness.

This bill would require anyone selling or offering weight loss services or products in New York State to provide prospective customers written information on the health risks of rapid weight loss, as well as informational resources to help educate consumers on supplements and programs before enrolling. **(Passed the Assembly)**

Price Gouging of Prescription Drugs (A.7087, 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)**

III. HEARINGS AND ROUNDTABLES

A. Hearing on the Practices of the Online Lending Industry

On May 22, 2017, the Committee joined with the Committees on Banks and Small Business to hold a joint public hearing to examine the practices of the online lending industry, which is expanding rapidly and which is still operating with relatively little direct oversight.

Online lenders issued over \$20 billion in loans in 2015, and that number is expected to grow over the next decade. Although online loans can provide another avenue for entrepreneurs to acquire capital and grow their small businesses, there is also significant potential for unscrupulous online lenders to exploit consumers through predatory practices such as unusually high interest rates, lack of disclosure of hidden fees, and unclear loan terms.

Witnesses presenting testimony at the hearing included Maria T. Vullo, Superintendent of the New York State Department of Financial Services (DFS); Richard H. Neiman, Head of Regulatory & Government Affairs for Lending Club; and representatives from the National Federation of Community Development Credit Unions, Cross River Bank, Excelsior Growth Fund, Marketplace Lending Association, Innovative Lending Platform Association, Consumers Union, CAMBA Legal Services, New Economy Project, and the Center for Responsible Lending.

IV. OUTLOOK AND GOALS FOR 2018

The 2018 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 2017 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 2017

Chapter 18	Mayer	Requires telemarketers to transmit to consumers the correct caller identification information
Chapter 32	Kavanagh	Relates to clarifying provisions pertaining to pre-need funeral services
Chapter 239	Mayer	Requires telemarketers to disclose that a call is being recorded
Chapter 413	Dinowitz	Provides for the sanitization of every used mattress or bedding material transported, stored or sold in the state
Chapter 477	Abbate	Relates to requiring automobile brokers to be licensed and bonded
Chapter 487	Kavanagh	Limits loan assignee liability with regard to motor vehicle retail installment contracts
Chapter 496	Moya	Relates to certain contracts

APPENDIX B

2017 BILLS PASSED BY THE ASSEMBLY

A.371	Mayer	Requires telemarketers to transmit to consumers the correct caller identification information
A.724-A	Gunther	Relates to the use of voice recognition features on certain products
A.859-A	Braunstein	Bans the use of employer data information
A.946	Rozic	Requires wireless telephone companies that offer shared or family plans to allow victims of domestic violence to be released from the account without penalty in instances of domestic violence
A.1401	Zebrowski	Authorizes the attorney general to bring an action for violation of the prohibitions concerning unlawful selling practices and specifies damages awardable
A.2426	Skartados	Prohibits the imposition of any charge or fee on the telephone bill of a consumer when such fee is imposed by a third party, without the consent of the consumer
A.2855	Steck	Defines certain terms in standard form contracts as unconscionable
A.2856	Peoples-Stokes	Relates to destruction of personal information stored on copiers, facsimile machines or multifunction devices.
A.2892-A	Dilan	Relates to the expiration of minutes purchased with prepaid cellular telephone cards
A.3246-A	Brindisi	Relates to home improvement contract provisions
A.4151-A	Paulin	Relates to prohibiting the sale of crib bumper pads and the restriction of the use of such pads in certain settings
A.4345	Galef	Relates to the manufacture and sale of seasonal and decorative lighting products containing lead
A.5227-A	Dinowitz	Provides for the sanitization of every used mattress or bedding material transported, stored or sold in the state
A.5718-B	Skoufis	Prohibits the use of non-disparagement clauses in consumer contracts
A.6424	Mayer	Requires telemarketers to disclose that a call is being recorded

A.6767	Cook	Requires persons offering weight loss services to provide notice of certain weight loss and dieting information
A.6884-B	Abbate	Relates to requiring automobile brokers to be licensed and bonded
A.7087	Crespo	Relates to price gouging of medicine
A.7245	Kavanagh	Relates to clarifying provisions pertaining to pre-need funeral services
A.8098	Kavanagh	Limits loan assignee liability with regard to motor vehicle retail installment contracts
A.8257-A	Moya	Relates to certain contracts

APPENDIX C

**2017 SUMMARY OF ACTION ON ALL BILLS REFERRED TO
THE ASSEMBLY COMMITTEE ON CONSUMER AFFAIRS AND PROTECTION**

<u>Final Disposition of Bills</u>	Assembly Bills	Senate Bills	Total
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee	5	0	5
To Floor; Recommitted and Died	0	0	0
To Ways and Means	3	0	3
To Codes	57	0	57
To Rules	5	0	5
To Judiciary	0	0	0
Total	70	0	70
<u>Bills Having Committee Reference Changed</u>			
To Codes	1	0	1
Total	1	0	1
<u>Senate Bills Substituted or Recalled</u>			
Substituted		2	2
Recalled		0	0
Total		2	2
Bills Defeated in Committee	0	0	0
Bills Held in Committee with a Roll-Call Vote	0	0	0
Bills Never Reported, Held in Committee	142	5	147
Bills Having Enacting Clause Stricken	19	0	19
Motions to Discharge Lost	0	0	0
Total Bills in Committee	232	7	239
Total Number of Committee Meetings Held	9		