

STATE OF NEW YORK

6259

2021-2022 Regular Sessions

IN ASSEMBLY

March 11, 2021

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the general business law, in relation to broadband service for low-income consumers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new
2 section 399-zzzzz to read as follows:

3 § 399-zzzzz. Broadband service for low-income consumers. 1. For the
4 purposes of this section, the term "broadband service" shall mean a
5 mass-market retail service that provides the capability to transmit data
6 to and receive data from all or substantially all internet endpoints,
7 including any capabilities that are incidental to and enable the opera-
8 tion of the communications service provided by a wireline, fixed wire-
9 less or satellite service provider, but shall not include dial-up
10 service.

11 2. Every person, business, corporation, or their agents providing or
12 seeking to provide wireline, fixed wireless or satellite broadband
13 service in New York state shall, no later than sixty days after the
14 effective date of this section, offer high speed broadband service to
15 low-income consumers whose household: (a) is eligible for free or
16 reduced-priced lunch through the National School Lunch Program; or (b)
17 whose annual gross household income is not in excess of one hundred
18 eighty-five percent of the federal poverty guidelines as updated period-
19 ically in the Federal Register by the United States Department of Health
20 and Human Services under the authority of 42 U.S.C. § 9902(2). Such
21 low-income broadband service shall provide a minimum download speed
22 equal to the greater of twenty-five megabits per second download speed
23 or the download speed of the provider's existing low-income broadband
24 service sold to customers in the state subject to exceptions adopted by

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD10455-02-1

1 the Public Service Commission where such download speed is not reason-
2 ably practicable.

3 3. Broadband service for low-income consumers, as set forth in this
4 section, shall be provided at a cost of no more than fifteen dollars per
5 month, inclusive of any recurring taxes and fees such as recurring
6 rental fees for service provider equipment required to obtain broadband
7 service and usage fees. Broadband service providers shall allow low-in-
8 come broadband service subscribers to purchase standalone or bundled
9 cable and/or phone services separately. Broadband service providers may,
10 once every five years, and after thirty days' notice to its customers
11 and the department of public service, increase the price of this service
12 by the lesser of the most recent change in the consumer price index or a
13 maximum of two percent per year of the price for such service.

14 4. A broadband service provider who offers a high speed broadband
15 service to eligible low-income customers, as such term is used in subdi-
16 vision two of this section, at a download speed of two hundred megabits
17 per second or greater at a cost of no more than twenty dollars per
18 month, inclusive of any recurring taxes and fees such as recurring
19 rental fees for service provider equipment required to obtain broadband
20 service and usage fees, shall be considered to be in compliance with the
21 requirements of subdivisions two and three of this section. Such provid-
22 ers may, once every two years, and after thirty days' notice to its
23 customers and the department of public service, increase the price of
24 such service by the lesser of the most recent change in the consumer
25 price index or a maximum of two percent per year of the price for such
26 service.

27 5. Every person, business, corporation, or their agents providing or
28 seeking to provide broadband service in New York state shall make all
29 commercially reasonable efforts to promote and advertise the availabili-
30 ty of broadband service for low-income consumers including, but not
31 limited to, the prominent display of, and enrollment procedures for,
32 such service on its website and in any written and commercial promo-
33 tional materials developed to inform consumers who may be eligible for
34 service pursuant to this section.

35 6. Every person, business, corporation, or their agents providing or
36 seeking to provide broadband service in New York state shall annually
37 submit to the department of public service, no later than November
38 fifteenth after the effective date of this act, and annually thereafter,
39 a compliance report setting forth: (a) a description of the service
40 offered pursuant to this section; (b) the number of consumers enrolled
41 in such service; (c) a description of the procedures being used to veri-
42 fy the eligibility of customers receiving such service; (d) a
43 description and samples of the advertising or marketing efforts under-
44 taken to advertise or promote such service; (e) a description of all
45 retail rate products, including pricing, offered by such person, busi-
46 ness, corporation, or their agents; (f) a description, including speed
47 and price, of all broadband products offered in the state of New York;
48 and (g) such other information as the department of public service may
49 require.

50 7. The department of public service shall, within two years of the
51 effective date of this section and at least every five years thereafter,
52 undertake a proceeding to determine if the minimum broadband download
53 speed in this section should be increased to the federal communications
54 commission's benchmark broadband download speed, or to another minimum
55 broadband download speed if the federal communications commission has
56 not increased its benchmark by such date. The department of public

1 service shall also: (a) undertake appropriate measures to inform the
2 public about available broadband products, including retail rate product
3 offerings and low-income offerings; and (b) periodically, but no less
4 than once every five years, review eligibility requirements for the
5 low-income service required pursuant to this section, and update such
6 requirements as may be necessary to meet the needs of consumers.

7 8. Whenever there shall be a violation of this section, an application
8 may be made by the attorney general in the name of the people of the
9 state of New York to a court or justice having jurisdiction by a special
10 proceeding to issue an injunction, and upon notice to the defendant of
11 not less than five days, to enjoin and restrain the continuance of such
12 violation; and if it shall appear to the satisfaction of the court or
13 justice that the defendant has, in fact, violated this section, an
14 injunction may be issued by the court or justice, enjoining and
15 restraining any further violations, without requiring proof that any
16 person has, in fact, been injured or damaged thereby. In any such
17 proceeding, the court may make allowances to the attorney general as
18 provided in paragraph six of subdivision (a) of section eighty-three
19 hundred three of the civil practice law and rules, and direct restitu-
20 tion. Whenever the court shall determine that a violation of this
21 section has occurred, the court may impose a civil penalty of not more
22 than one thousand dollars per violation. In connection with any such
23 proposed application, the attorney general is authorized to take proof
24 and make a determination of the relevant facts and to issue subpoenas in
25 accordance with the civil practice law and rules.

26 § 2. This act shall take effect immediately.