

# STATE OF NEW YORK

6259--A

Cal. No. 207

2021-2022 Regular Sessions

## IN ASSEMBLY

March 11, 2021

Introduced by M. of A. PAULIN, OTIS -- read once and referred to the Committee on Corporations, Authorities and Commissions -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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-zzzzzz to read as follows:

3 § 399-zzzzzz. 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

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

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1 service sold to customers in the state subject to exceptions adopted by  
2 the Public Service Commission where such download speed is not reason-  
3 ably practicable.

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

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

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

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

51 7. The department of public service shall, within two years of the  
52 effective date of this section and at least every five years thereafter,  
53 undertake a proceeding to determine if the minimum broadband download  
54 speed in this section should be increased to the federal communications  
55 commission's benchmark broadband download speed, or to another minimum  
56 broadband download speed if the federal communications commission has

1 not increased its benchmark by such date. The department of public  
2 service shall also: (a) undertake appropriate measures to inform the  
3 public about available broadband products, including retail rate product  
4 offerings and low-income offerings; and (b) periodically, but no less  
5 than once every five years, review eligibility requirements for the  
6 low-income service required pursuant to this section, and update such  
7 requirements as may be necessary to meet the needs of consumers.

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

27 § 2. This act shall take effect immediately.