STATE OF NEW YORK

6327--A

2021-2022 Regular Sessions

IN ASSEMBLY

March 15, 2021

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to requiring broadband service providers to offer low-income households a discount on their broadband service bill

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

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

§ 399-zzzzz. Broadband service discount for low-income households. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Broadband service" shall mean a mass-market retail service that provides the capability to transmit data to and receive data from all, or substantially all, internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service provided by a wireline, fixed wireless or satellite service provider, but shall not include dial-up service or digital subscriber line service.

(b) "Broadband service provider" shall mean any person, business, corporation, or their agents, providing or seeking to provide broadband service in the state of New York.

(c) "Eligible household" shall mean a household:

(i) that is eligible for free or reduced-priced lunch authorized by the national school lunch program; or

(ii) with an annual gross household income that is not in excess of one hundred thirty-five percent of the federal poverty guidelines, as updated periodically in the federal register by the United States

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

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department of health and human services pursuant to subsection (2) of section 9902 of title 42 of the United States code.

(d) "Standard rate" shall mean the monthly retail rate, inclusive of any reoccurring taxes and fees, for the applicable tier of broadband service.

2. Every broadband service provider shall, no later than sixty days after the effective date of this section, offer a monthly discount where it is provided on existing facilities to an eligible household applied to the actual amount charged to such household for the standard rate of a broadband service plan, whether standalone or bundled, and associated equipment, in the amount of fifty dollars, or if the standard rate of the broadband service plan is less than fifty dollars, in the amount of such rate. Such discount required by this section shall not apply to a provider's existing low-income or COVID-19 program.

3. Notwithstanding any other provision of law, rule, or regulation, any broadband service provider that participates in the Emergency Broadband Benefit program administered by the federal communications commission shall be considered in compliance with the requirements of this section and any rule or regulation adopted to effectuate the requirements of this section, after providing evidence of such participation in the Emergency Broadband Benefit program to the public service commission and the attorney general.

4. Every broadband service provider shall make all commercially reasonable efforts to promote and advertise the availability of the discount required by this section including, but not limited to, the prominent display of, and enrollment procedures for, such service on its website and in any written and commercial promotional materials developed to inform consumers who may be eligible for the discount pursuant to this section.

5. The public service commission shall promulgate rules and regulations to effectuate the provisions of this section, and may issue a waiver exempting any broadband service provider otherwise subject to the requirements of this section or modify the requirements and/or obligations of this section as it applies to any broadband service provider otherwise subject to the requirements of this section:

(a) where compliance with the requirements of this section would cause undue hardship to the broadband service provider, and it would be in the public interest to grant such waiver; or

(b) if such person, business, corporation, or their agent, is not eligible to participate in the Emergency Broadband Benefit program administered by the federal communications commission, or if such program expires or is eliminated by the federal government.

6. Every person, business, corporation, or their agents, providing or seeking to provide broadband service in the state of New York shall submit to the department of public service, no later than November fifteenth of the year this section takes effect, and annually thereafter, a compliance report setting forth: (a) the number of consumers availing themselves of the discount required by this section; (b) a description of the procedures being used to verify the eligibility of customers receiving such discount; (c) a description and samples of the advertising or marketing efforts undertaken to advertise or promote such discount; (d) a description of all retail rate products, including pricing, offered by such person, business, corporation, or their agents; (e) a description, including speed and price, of all broadband products offered in the state of New York; and (f) such other information as the department of public service may require.

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

§ 2. This act shall take effect immediately.