

STATE OF NEW YORK

1714

2023-2024 Regular Sessions

IN ASSEMBLY

January 20, 2023

Introduced by M. of A. CUNNINGHAM -- 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 Assem-
bly, 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 broadband service in New York state shall, no later
13 than sixty days after the effective date of this section, offer high
14 speed broadband service to low-income consumers whose household: (a) is
15 eligible for free or reduced-priced lunch through the National School
16 Lunch Program; or (b) whose annual gross household income is not in
17 excess of one hundred eighty-five percent of the federal poverty guide-
18 lines as updated periodically in the Federal Register by the United
19 States Department of Health and Human Services under the authority of 42
20 U.S.C. § 9902(2); or (c) is eligible for, or receiving the supplemental
21 nutrition assistance program benefits; or (d) is eligible for, or
22 receiving Medicaid benefits; or (e) is eligible for, or enrolled in
23 senior citizen rent increase exemption; or (f) is eligible for, or
24 enrolled in disability rent increase exemption; or (g) is a recipient of
25 an affordability benefit from a utility. Such 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 shall provide a minimum download speed equal to the greater of
2 one hundred megabits per second download speed or the download speed of
3 the provider's existing low-income broadband service sold to customers
4 in the state, and a minimum upload speed equal to the greater of ten
5 megabits per second or the upload speed of the provider's existing low-
6 income broadband service sold to customers in the state, subject to
7 exceptions adopted by the public service commission where such speeds
8 are unreasonable and impracticable.

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

20 4. Any contract or agreement for broadband service targeted to low-in-
21 come consumers provided by an entity described in subdivision two of
22 this section, pursuant to this section or otherwise, shall have the same
23 terms and conditions, other than price and speed set pursuant to this
24 section, as for the regularly priced offerings for similar service
25 provided by such entity.

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

34 6. Every person, business, corporation, or their agents providing or
35 seeking to provide broadband service in New York state shall annually
36 submit to the department of public service, no later than November
37 fifteenth after the effective date of this act, and annually thereafter,
38 a compliance report setting forth: (a) a description of the service
39 offered pursuant to this section; (b) the number of consumers enrolled
40 in such service; (c) a description of the procedures being used to veri-
41 fy the eligibility of customers receiving such service; (d) a
42 description and samples of the advertising or marketing efforts under-
43 taken to advertise or promote such service; (e) a description of all
44 retail rate products, including pricing, offered by such person, busi-
45 ness, corporation, or their agents; (f) a description, including speed
46 and price, of all broadband products offered in the state of New York;
47 (g) a description of the number of customers in arrears for the payment
48 for broadband service, percentage of customers in arrears that qualify
49 for low-income broadband service, the number of households that have had
50 their service terminated as a result of non-payment, the number of
51 customers whose service was terminated for arrears arising from non-pay-
52 ment for services other than broadband service, and the number of house-
53 holds that have their broadband service restored after being delinquent
54 on their payments; and (h) such other information as the department of
55 public service may require.

1 7. The department of public service shall, within two years of the
2 effective date of this section and at least every five years thereafter,
3 undertake a proceeding to determine if the minimum broadband download
4 speed in this section should be increased to the federal communications
5 commission's benchmark broadband download speed, or to another minimum
6 broadband download speed if the federal communications commission has
7 not increased its benchmark by such date. The department of public
8 service shall also: (a) undertake appropriate measures to inform the
9 public about available broadband products, including retail rate product
10 offerings and low-income offerings; and (b) periodically, but no less
11 than once every five years, review eligibility requirements for the
12 low-income service required pursuant to this section, and update such
13 requirements as may be necessary to meet the needs of consumers.

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

33 § 2. This act shall take effect on the thirtieth day after it shall
34 have become a law.