STATE OF NEW YORK

4910

2023-2024 Regular Sessions

IN ASSEMBLY

February 24, 2023

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, the correction law and the state finance law, in relation to establishing pricing restrictions for certain contracts involving care package vendors

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 396-mmm to read as follows:

§ 396-mmm. Pricing restrictions; care package vendors. 1. For the purposes of this section:

(a) "Care package vendor" shall mean a mail-order business or telephone order business as such terms are defined in section three hundred ninety-six-m of this chapter that is primarily engaged in the solicitation of orders by advertisement or otherwise for merchandise to be shipped to an incarcerated individual housed in a correctional facility pursuant to a contract with the department of corrections and community supervision or a state or local correctional facility.

(b) "Accepts orders" shall mean, in the case of a mail order, receipt of an order with payment or with charge account authorization remitted through the mail, electronic mail or the Internet, and, in the case of a telephone order, receipt of an order with charge account authorization and debiting the buyer's account.

2. No person, partnership, firm, association or corporation or agent or employee thereof who conducts a care package vendor business shall sell or offer to sell any merchandise, or accept any order for merchandise, for an amount which exceeds the price of the same or substantially similar merchandise sold in the commissary or canteen of the correctional facility in which the incarcerated individual to whom such merchandise is to be shipped is housed, plus the actual cost of shipping such merchandise to such incarcerated individual.

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

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3. It shall be unlawful for any person, partnership, firm, association or corporation or agent or employee thereof who conducts a care package vendor business to demand or accept any payment, fee, or charge from an incarcerated individual or other purchaser for any amount other than the price authorized pursuant to subdivision two of this section.

4. Any contract or agreement purporting to waive or modify the pricing restrictions set forth in this section shall be void as contrary to public policy.

§ 2. Section 112 of the correction law is amended by adding a new subdivision 6 to read as follows:

6. The commissioner shall promulgate rules and regulations requiring that every procurement contract with a care package vendor as defined in section three hundred ninety-six-mmm of the general business law shall contain a provision prohibiting such care package vendor from charging any price for its merchandise in excess of the amounts authorized by subdivision two of section three hundred ninety-six-mmm of the general business law. The commissioner shall monitor and enforce compliance with this subdivision.

§ 3. The state finance law is amended by adding a new section 165-b to read as follows:

§ 165-b. Purchasing restrictions; correctional facilities. The department of corrections and community supervision and any state or local correctional facility, as defined in section two of the correction law, shall not enter into a contract with a care package vendor, as defined in section three hundred ninety-six-mmm of the general business law, unless such contract requires compliance with the pricing restrictions set forth in subdivisions two and three of section three hundred ninety-six-mmm of the general business law in accordance with the provisions of subdivision six of section one hundred twelve of the correction law.

§ 4. This act shall take effect immediately and shall apply to contracts entered into on and after such date.