STATE OF NEW YORK

6765--A

R. R. 114

2025-2026 Regular Sessions

IN ASSEMBLY

March 12, 2025

Introduced by M. of A. TORRES, ROZIC -- read once and referred to the Committee on Consumer Affairs and Protection -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Rules -- ordered to a third reading -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

AN ACT to amend the general business law, in relation to requiring disclosure of algorithmically set prices

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

Section 1. Short title. This act shall be known and may be cited as the "Preventing Algorithmic Pricing Discrimination Act".

§ 2. Section 349-a of the general business law is renumbered 349-h and a new section 349-a is added to read as follows:

§ 349-a. Pricing. 1. As used in this section, the following terms shall have the following meanings:

(a) "Algorithm" means a computational process that uses a set of rules to define a sequence of operations.

(b) "Clear and conspicuous disclosure" means disclosure in the same medium as, and provided on, at, or near and contemporaneous with every advertisement, display, image, offer or announcement of a price for which notice is required, using lettering and wording that is easily visible and understandable to the average consumer.

(c) "Consumer" means a natural person who is seeking or solicited to purchase, lease or receive a good or service for personal, family or household use.

(d) "Consumer data" means any data that identifies or could reasonably be linked, directly or indirectly, with a specific natural person or device, excluding location data.

(e) "Dynamic pricing" means pricing that fluctuates dependent on conditions where models retrain or recalibrate on information in near

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

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real-time, excluding promotional pricing offers, loyalty program benefits or other temporary discounts or changes to pricing related to retention of existing customers.

(f) "Personalized algorithmic pricing" means dynamic pricing derived from or set by an algorithm that uses consumer data as defined in this section, which may vary among individual consumers or consumer populations.

(g) "Person" means any natural person, firm, organization, partnership, association, corporation, or any other entity domiciled or doing business in New York state.

2. Any person who knowingly advertises, promotes, labels or publishes a statement, display, image, offer or announcement of personalized algorithmic pricing using consumer data specific to a particular individual shall include with such statement, display, image, offer or announcement a clear and conspicuous disclosure that states:

"THIS PRICE WAS SET BY AN ALGORITHM USING YOUR PERSONAL DATA".

3. 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 respondent of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the respondent has, in fact, violated this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. 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 for each violation. In connection with any such 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.

4. Nothing in this section shall apply to any insurer licensed, regulated, or otherwise authorized to do business in the state of New York under the insurance law or any excess lines insurer, including any persons, agents, or affiliates acting on behalf of such insurer.

5. Nothing in this section shall apply to financial services, including but not limited to financial institutions, financial institution affiliates, broker-dealers, registered investment advisors, and entities that provide consumer credit products such as credit cards, personal loans, and mortgages.

§ 3. Subdivision 3 of section 396 of the general business law is renumbered subdivision 4 and a new subdivision 3 is added to read as follows:

3. a. For purposes of this subdivision, "protected class data" means information about an individual person or groups of people that directly, in combination, or by implication identifies a characteristic that is legally protected from discrimination under the laws of this state or under federal law, including but not limited to ethnicity, national origin, age, disability, sex, sexual orientation, gender identity and expression, pregnancy outcomes and reproductive health care.

b. No person, firm, partnership, association or corporation, or agent or employee thereof, shall use protected class data in setting a price for, offering, marketing, or selling any good or service if (1) the use of that data has the effect of withholding or denying any of the accommodations, advantages, and privileges accorded to others, or (2) the

price for such good or service is different from the price offered to other individuals or groups based in whole or in part on the use of protected class data.

c. Nothing in this subdivision shall apply to any insurer licensed, regulated, or otherwise authorized to do business in the state of New York under the insurance law or any excess lines insurer, including any persons, agents, or affiliates acting on behalf of such insurer.

d. Nothing in this subdivision shall apply to financial services, including but not limited to financial institutions, financial institution affiliates, broker-dealers, registered investment advisors, and entities that provide consumer credit products such as credit cards, personal loans, and mortgages.

§ 4. Paragraph d of subdivision 4 of section 396 of the general business law, as added by chapter 689 of the laws of 2022 and as renumbered by section three of this act, is amended to read as follows:

d. In addition to any other remedies provided in this section, any person aggrieved by a violation of subdivision three of this section may file an action in accordance with section two hundred ninety-seven of the executive law. Nothing in this section shall in any way limit rights or remedies which are otherwise available under law to the attorney general or any other person authorized to bring an action under this section.

§ 5. This act shall take effect on the sixtieth day after it shall have become a law.