

# STATE OF NEW YORK

9396

2025-2026 Regular Sessions

## IN ASSEMBLY

December 19, 2025

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

AN ACT to amend the general business law, in relation to establishing the protecting consumers and jobs from discriminatory pricing act

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "Protecting Consumers and Jobs from Discriminatory Pricing Act".

3 § 2. Legislative findings. The legislature finds and declares that:

4 1. It is the policy of the state of New York to protect consumers from  
5 discriminatory pricing schemes in whatever iteration they appear or  
6 evolve. Advancements in algorithms, in artificial intelligence, and in  
7 electronic shelving technology have created commercial and retail envi-  
8 ronments where it is possible to set pricing for a product or service  
9 based on personal or protected data. Currently, there are no prohibi-  
10 tions on companies using such data to set prices; this gap in the law  
11 presents a distinct potential for companies to violate consumer privacy  
12 rights and create discriminatory results.

13 While offering goods at different prices due to customer demand is not  
14 new, there are subtle and important differences between price optimiza-  
15 tion and discriminatory pricing schemes like personalized algorithmic  
16 pricing and surveillance pricing, in which companies exploit the  
17 personal and protected data of consumers to maximize profits. It is in  
18 the interest of the state to regulate any technologies or business  
19 models that stifle competition through the monetization of consumers'  
20 personal information.

21 2. The state of New York further finds that business models in person-  
22 alized algorithmic or surveillance pricing will lead to the elimination  
23 of numerous jobs, putting the livelihood of many workers at risk.  
24 Protecting these jobs will further benefit consumers who are part of  
25 this economic ecosystem. It will also add to the growth of the state's

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

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1 economy and job market. Thus, by enacting rules around personalized  
2 algorithmic and surveillance pricing, the state of New York can protect  
3 these jobs and promote the growth of jobs in the future.

4 § 3. The general business law is amended by adding a new section 349-  
5 a-1 to read as follows:

6 § 349-a-1. Discriminatory pricing. 1. The following terms shall have  
7 the following meanings for the purposes of this section:

8 (a) "Algorithm" means a computational process that uses a set of rules  
9 to define a sequence of operations including but not limited to artifi-  
10 cial intelligence systems and facial-recognition software.

11 (b) "Consumer" means a natural person who is seeking or solicited to  
12 purchase, lease or receive a good or service not for resale in the ordi-  
13 nary course of the natural person's trade or business, but for personal,  
14 family or household use.

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

18 (d) "Dynamic and surveillance pricing" means pricing that fluctuates  
19 depending on conditions where algorithmic or artificial intelligence  
20 models retrain or recalibrate on information in near real-time, exclud-  
21 ing promotional pricing offers, loyalty program benefits or other tempo-  
22 rary discounts or changes to pricing related to retention of existing  
23 customers.

24 (e) "Surveillance pricing" means offering or setting a customized  
25 price for a good or service for a specific consumer or group of consum-  
26 ers, based, in whole or in part, on covered information collected  
27 through electronic surveillance technology. "Surveillance pricing"  
28 includes the use of technological methods, systems, or tools, including,  
29 but not limited to, sensors, cameras, device tracking, biometric moni-  
30 toring, or other forms of observation or data collection, that are capa-  
31 ble of gathering covered information about a consumer's behavior, char-  
32 acteristics, location, or other personal attributes, whether in physical  
33 or digital environments.

34 (f) "Electronic shelving labels" (ESLs) means electronic and wireless  
35 paper (E-paper) displays that present product and pricing information.

36 (g) "Food retail establishment" means a retail store that is either:  
37 (1) over fifteen thousand square feet in size and sells primarily house-  
38 hold foodstuff for offsite consumption including fresh produce, meats,  
39 poultry, fish, deli products, dairy products, canned foods, dry foods,  
40 beverages, baked foods and/or prepared foods (other household supplies  
41 or products are secondary to the primary purpose of food sales); or (2)  
42 over eighty-five thousand square feet and with ten percent of their  
43 sales floor area dedicated to the sale of non-taxable merchandise  
44 including the sale of fresh produce, meats, poultry, fish, deli  
45 products, dairy products, canned foods, dry foods, beverages, baked  
46 foods and/or prepared foods.

47 (h) "Drug retail establishment" means a retail store that sells a  
48 variety of prescription and nonprescription medicines and miscellaneous  
49 items, including drugs, pharmaceuticals, sundries, fresh produce, meats,  
50 poultry, fish, deli products, dairy products, canned foods, dry foods,  
51 beverages, prepared foods, and other merchandise.

52 (i) "Non-digital presentation of price" means (1) A sign which offers  
53 the unit price for one or more brands or sizes of a given commodity; or  
54 (2) A sticker, stamp, sign, label, or tag, affixed to the shelf upon  
55 which the commodity is displayed; and (3) A sticker, stamp, sign, label,  
56 or tag, affixed to the consumer commodity itself. If a single sign or

1 tag does not provide the unit price information for more than one brand  
2 or size of a given commodity, then the following information shall be  
3 provided: i. the identity; ii. the brand name; iii. the quantity of the  
4 packaged commodity if more than one package size per brand is displayed;  
5 iv. the total sale price; and v. the price per appropriate unit. Where a  
6 sign providing unit price information for one or more sizes or brands of  
7 a given commodity is used, the sign shall be located centrally as close  
8 as practical to all items to which the sign refers, and the unit price  
9 information displayed thereon shall be presented in a clear, distinct,  
10 and non-deceptive manner.

11 (j) "Personalized algorithmic pricing" means dynamic and surveillance  
12 pricing derived from or set by an algorithm that uses consumer data  
13 which may vary among consumers and/or groups of consumers.

14 (k) "Person" means any human being or individual.

15 (l) "Protected class data" means information about an individual  
16 person or groups of people that directly, in combination, or by impli-  
17 cation identifies a characteristic that is legally protected from  
18 discrimination under the laws of this state or under federal law,  
19 including but not limited to ethnicity, national origin, age, disabili-  
20 ty, predisposing genetic characteristic, sex, sexual orientation, gender  
21 identity and expression, pregnancy-related conditions, marital status,  
22 familial status, religion, and reproductive health care.

23 2. (a) In food retail establishments and in drug retail establish-  
24 ments, the use of ESLs or any digital shelf display technology shall be  
25 prohibited and a non-digital presentation of price shall be used. This  
26 prohibition does not limit any food retail or drug retail establishment  
27 and any business to provide consumers, based on previous purchase histo-  
28 ry, a discount, promotional price, or loyalty program benefit.

29 (b) The use of ESLs or any digital shelf display technology to display  
30 personalized algorithmic pricing or surveillance pricing is prohibited.

31 (c) It is unlawful, for any reason, for any food retail or drug retail  
32 establishment to engage in personalized algorithmic pricing or surveil-  
33 lance pricing.

34 (d) Data of minors under seventeen shall not be collected or used for  
35 targeted advertising or personalized algorithmic pricing under any  
36 circumstances.

37 (e) No food retail or drug retail establishment shall use protected  
38 class data in setting a price for, offering, marketing, or selling any  
39 good or service if any of the following are true:

40 (1) The use of that data has the effect of withholding or denying any  
41 of the accommodations, advantages, and privileges accorded to others.

42 (2) The price for such good or service is different from the price  
43 offered to other individuals or groups based in whole or in part on the  
44 use of protected class data.

45 (f) Nothing in this section shall apply to financial services, includ-  
46 ing but not limited to financial institutions, financial institution  
47 affiliates, broker-dealers, registered investment advisors, and entities  
48 that provide consumer credit products such as credit cards, personal  
49 loans, and mortgages.

50 (g) Nothing in this section shall apply to any insurer licensed, regu-  
51 lated, or otherwise authorized to do business in the state of New York  
52 under the insurance law, including any persons, agents, or affiliates  
53 acting on behalf of such insurer.

54 3. (a) Whenever there shall be a violation of any portion of this  
55 section, an application may be made by the attorney general or, where  
56 applicable, by a consumer, worker or labor organization acting on behalf

1 of affected individuals in the name of the people of the state of New  
2 York to a court or justice having jurisdiction to issue an injunction,  
3 and upon notice to the respondent of not less than five days, to enjoin  
4 and restrain the continuance of such violations; and if it shall appear  
5 to the satisfaction of the court or justice that the respondent has, in  
6 fact, violated any portion, an injunction may be issued by such court or  
7 justice, enjoining and restraining any further violation, without  
8 requiring proof that any person has, in fact, been injured or damaged  
9 thereby.

10 (b) Whenever the court shall determine that a violation of any portion  
11 of this section has occurred, the court may impose a civil penalty of  
12 not more than ten thousand dollars for each violation, with each day of  
13 a continuing violation constituting a separate and distinct offense. In  
14 connection with any such application, the attorney general is authorized  
15 to take proof and make a determination of the relevant facts and to  
16 issue subpoenas in accordance with the civil practice law and rules. All  
17 penalties collected under this section shall be deposited into a dedi-  
18 cated consumer and worker protection fund to support enforcement, educa-  
19 tion and remedies for affected individuals.

20 (c) In addition to any other remedies provided in this section, any  
21 consumer, employee or labor organization, individually or on behalf of a  
22 class of similarly-situated persons, aggrieved by a violation of this  
23 section shall have a private right of action in any court of competent  
24 jurisdiction. Prevailing plaintiffs shall be entitled to recover the  
25 greater of actual damages or statutory damages of not less than five  
26 thousand dollars per violation, injunctive and declaratory relief,  
27 restitution, disgorgement of profits, and any other relief deemed appro-  
28 priate by the court. In cases of willful, reckless or knowing  
29 violations, treble damages shall be awarded. Prevailing plaintiffs shall  
30 also be awarded reasonable attorney's fees, expert witness fees and  
31 costs. Nothing in this section shall in any way limit or restrict any  
32 rights or remedies which are otherwise available under law to the attor-  
33 ney general or any other person authorized to bring an action under this  
34 section. Any waiver of the rights provided by this section is against  
35 public policy, void and unenforceable. Retaliation against any person or  
36 organization exercising rights under this section is prohibited and  
37 constitutes a separate violation.

38 § 4. This act shall be liberally construed to effectuate its purposes.  
39 If a court declares any provision or application of this act to be ille-  
40 gal, the remaining provisions shall remain in effect. Courts are hereby  
41 authorized to reform the provisions of this act in order to preserve the  
42 maximum lawful effect thereof.

43 § 5. This act shall take effect immediately.