

STATE OF NEW YORK

8427--A

2025-2026 Regular Sessions

IN ASSEMBLY

May 15, 2025

Introduced by M. of A. LASHER, DINOWITZ, SEAWRIGHT, FORREST, WEPRIN, SCHIAVONI, STECK, SIMON, SHIMSKY, VALDEZ, GALLAGHER, TORRES, P. CARROLL, HEVESI, EPSTEIN, R. CARROLL, ROSENTHAL, REYES, ALVAREZ, RAJKUMAR, BURROUGHS, SIMONE, GLICK, SOLAGES, COLTON, GONZALEZ-ROJAS, LUNSFORD, TAPIA, TAYLOR, CUNNINGHAM, O'PHARROW, DE LOS SANTOS, MITAYNES, CLARK, LEVENBERG, BORES, GIBBS, CRUZ, STIRPE, WIEDER, PAULIN, McMAHON, MEEKS, LEE, SHRESTHA, WRIGHT, JACKSON, BRONSON, CONRAD, ROMERO -- (at request of the Attorney General) -- read once and referred to the Committee on Consumer Affairs and Protection -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to enacting the "fostering affordability and integrity through reasonable (FAIR) business practices act"

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

1 Section 1. This act shall be known and may be cited as the "fostering
2 affordability and integrity through reasonable (FAIR) business practices
3 act".

4 § 2. Article 22-A of the general business law is amended by adding a
5 new section 348 to read as follows:

6 § 348. Purpose and intent of article. The legislature declares that
7 the state has a responsibility to protect New Yorkers from unfair,
8 deceptive and abusive business acts and practices. The legislature
9 recognizes the limitations of the current state law, which prohibits
10 only the use of deceptive business acts and practices, and has proven
11 insufficient to satisfy the state's responsibilities to protect New
12 Yorkers and the New York economy from unfair, deceptive, and abusive
13 business practices. For too long, New Yorkers, especially New Yorkers
14 with limited income, communities of color, seniors, children, veterans,

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

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1 and immigrant populations, have been left vulnerable to unscrupulous
 2 business practices. It is time for New York to join all but a handful
 3 of New York's fellow jurisdictions by adopting a comprehensive unfair,
 4 deceptive, and abusive business acts and practices statute that gives
 5 government and private parties the tools to address these harms. The
 6 state must achieve the goal of deterring and remedying a broad range of
 7 unfair, deceptive, and abusive business practices, and leveling the
 8 playing field for the state's many honest businesses and non-profits
 9 that treat their customers fairly. It must also anticipate future
 10 unfair, deceptive, and abusive acts, including from new and emerging
 11 technologies. To that end, this article defines unfair and abusive acts
 12 and practices expansively to reach conduct that is unfair or abusive but
 13 arguably not deceptive.

14 The state must also ensure the most meaningful and effective
 15 protection to New Yorkers against unfair, deceptive, and abusive busi-
 16 ness practices. This article therefore eliminates atextual exceptions
 17 imposed by courts over the last five decades that have limited the
 18 attorney general's power to enforce the statute to acts that are
 19 "consumer-oriented" or that have an impact on the public at large. The
 20 attorney general has a special responsibility to the public to create a
 21 fair marketplace for all. That responsibility extends to protecting
 22 businesses and non-profits as well as individuals. There is no reason
 23 to believe that a small business or non-profit is any better able to
 24 defend itself from unfair, abusive, and deceptive conduct than a consum-
 25 er, or that small entities need the protections of this article any less
 26 than individuals do. The market and wider society is harmed by the nega-
 27 tive consequences that flow from unfair, deceptive, and abusive business
 28 practices even if those acts and practices have not been understood as
 29 "consumer-oriented".

30 § 3. The article heading of article 22-A of the general business law,
 31 as amended by chapter 43 of the laws of 1970, is amended to read as
 32 follows:

33 [CONSUMER] PROTECTION FROM
 34 UNFAIR, DECEPTIVE, OR ABUSIVE ACTS AND
 35 PRACTICES

36 § 4. Section 349 of the general business law, as added by chapter 43
 37 of the laws of 1970, subdivision (h) as amended by chapter 157 of the
 38 laws of 1984 and subdivision (j) as added by section 6 of part HH of
 39 chapter 55 of the laws of 2014, is amended to read as follows:

40 § 349. [~~Deceptive~~] Unfair, deceptive, or abusive acts and practices
 41 unlawful. (a) [~~Deceptive~~] Unfair, deceptive, or abusive acts or prac-
 42 tices in the conduct of any business, trade or commerce or in the
 43 furnishing of any service in this state are hereby declared unlawful.

44 For the purposes of this section:

45 (1) An act or practice is unfair when it causes or is likely to cause
 46 substantial injury which is not reasonably avoidable and is not
 47 outweighed by countervailing benefits to consumers or to competition.
 48 The term "substantial injury" as used in this subdivision shall have the
 49 same meaning as the term "substantial injury" in the federal trade
 50 commission act, 15 U.S.C. Section 41 et seq., provided that the substan-
 51 tial injury of a person or persons other than consumers shall also be
 52 deemed a "substantial injury" for purposes of this section.

53 (2) An act or practice is abusive when:

54 (i) it materially interferes with the ability of a person to under-
 55 stand a term or condition of a product or service; or

56 (ii) it takes unreasonable advantage of:

1 (A) a lack of understanding on the part of a person of the material
2 risks, costs, or conditions of a product or service;

3 (B) the inability of a person to protect such person's interests in
4 selecting or using a product or service; or

5 (C) the reasonable reliance by a person on a person engaging in the
6 act or practice to act in the relying person's interests.

7 (b) (1) Whenever the attorney general shall believe from evidence
8 satisfactory to ~~[him]~~ the attorney general that any person, including
9 but not limited to an individual, firm, corporation, company, partner-
10 ship or association, or agent or employee thereof, has engaged in or is
11 about to engage in any of the acts or practices stated to be ~~[unlawful~~
12 ~~he]~~ unfair, deceptive, or abusive, the attorney general may bring an
13 action or proceeding in the name and on behalf of the people of the
14 state of New York to enjoin such unlawful acts or practices and to
15 obtain restitution of any moneys or property obtained directly or indi-
16 rectly by any such unlawful acts or practices. In such action or
17 proceeding, preliminary relief may be granted under article sixty-three
18 of the civil practice law and rules.

19 (2) The attorney general may bring such an action or proceeding
20 against any person conducting any business, trade or commerce or
21 furnishing a service in this state, whether or not the person is with-
22 out the state. The attorney general may also bring such an action or
23 proceeding against any person within the state conducting any business,
24 trade, or commerce or furnishing a service, whether or not the business,
25 trade, commerce, or service is conducted or furnished without the state.

26 (3) An act or practice made unlawful by this section is actionable by
27 the attorney general regardless of whether or not that act or practice
28 is consumer-oriented.

29 (c) Before ~~[any violation of this section is sought to be enjoined]~~
30 commencing an action or proceeding pursuant to this section, the attor-
31 ney general shall be required to give the person against whom such
32 action or proceeding is contemplated notice by certified mail and an
33 opportunity to show in writing within five business days after receipt
34 of notice why ~~[proceedings]~~ an action or proceeding should not be insti-
35 tuted against ~~[him]~~ such person, unless the attorney general shall find,
36 in any case in which ~~[he]~~ the attorney general seeks preliminary relief,
37 that to give such notice and opportunity is not in the public interest.

38 (d) In any ~~[such]~~ action or proceeding brought pursuant to this
39 section it shall be a complete defense that the act or practice is, or
40 if in interstate commerce would be, subject to and complies with the
41 rules and regulations of, and the statutes administered by, the federal
42 trade commission or any official department, division, commission or
43 agency of the United States as such rules, regulations or statutes are
44 interpreted by the federal trade commission or such department, divi-
45 sion, commission or agency or the federal courts.

46 (e) Nothing in this section shall apply to any television or radio
47 broadcasting station or to any publisher or printer of a newspaper,
48 magazine or other form of printed advertising, who broadcasts,
49 publishes, or prints the advertisement.

50 (f) In connection with any proposed action or proceeding under this
51 section, the attorney general is authorized to take proof and make a
52 determination of the relevant facts, and to issue subpoenas in accord-
53 ance with the civil practice law and rules.

54 (g) This section shall apply to all ~~[deceptive]~~ unfair, deceptive, or
55 abusive acts or practices ~~[declared to be unlawful],~~ whether or not
56 subject to any other law of this state, and shall not supersede, amend

1 or repeal any other law of this state under which the attorney general
2 or any other party is authorized to take any action or conduct any
3 inquiry.

4 (h) In addition to the right of action granted to the attorney general
5 pursuant to this section, any person who has been injured by reason of
6 any [~~violation of~~] deceptive act or practice made unlawful by this
7 section may bring an action in [~~his~~] such person's own name to enjoin
8 such [~~unlawful~~] deceptive act or practice, an action to recover [~~his~~]
9 such person's actual damages or fifty dollars, whichever is greater, or
10 both such actions. The court may, in its discretion, increase the award
11 of damages to an amount not to exceed three times the actual damages up
12 to one thousand dollars, if the court finds the defendant willfully or
13 knowingly violated this section. The court may award reasonable attor-
14 ney's fees to a prevailing plaintiff.

15 [~~(j)~~] (i) Notwithstanding any law to the contrary, all monies recov-
16 ered or obtained under this article by a state agency or state official
17 or employee acting in their official capacity shall be subject to subdi-
18 vision eleven of section four of the state finance law.

19 § 5. Severability. If any clause, sentence, paragraph, subdivision,
20 section or part of this act shall be adjudged by any court of competent
21 jurisdiction to be invalid, such judgment shall not affect, impair, or
22 invalidate the remainder thereof, but shall be confined in its operation
23 to the clause, sentence, paragraph, subdivision, section or part thereof
24 directly involved in the controversy in which such judgment shall have
25 been rendered. It is hereby declared to be the intent of the legislature
26 that this act would have been enacted even if such invalid provisions
27 had not been included herein.

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