STATE OF NEW YORK

9348--A

2025-2026 Regular Sessions

IN ASSEMBLY

December 15, 2025

Introduced by M. of A. TORRES -- read once and referred to the Committee on Consumer Affairs and Protection -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to prohibiting online retailers from basing prices on certain criteria

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 219 to read as follows:

§ 219. Online retailer pricing. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Bona fide discount" means a genuine reduction in price that is referred to as such to consumers. Entities may reasonably interpret the term "bona fide discount" to mean a genuine reduction from a contemporaneous or recent reference price that is established absent of deceptive, abusive and unfair practices as required by section three hundred forty-nine of this chapter and 16 CFR 233.

(b) "Consumer price" means the reference price with adjustments based on bona fide discounts, including sales, coupons, promotions or other discounts.

(c) "Reference price" means the actual amount a consumer must pay for any good or service, including mandatory fees or charges necessary to receive such good or service except taxes or fees imposed by a government, that is openly and actively offered to the public in the regular course of business for a reasonably substantial and recent period in time.

(d) "Hardware state" shall mean the condition or mode of existence of a system, component, or simulation, including, but not limited to, battery life, number of wireless connections detected, and age of the

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

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device, data that is erased when an online device is restarted or powered down, and data that is retained when an online device is restarted or powered down.

(e) "Online device" shall mean a physical object that has built-in resources that allow it to communicate through the internet or a short-range wireless technology and react to interface conditions, including, but not limited to, a laptop computer, a desktop computer, a tablet, a smartphone, or other smart hardware.

(f) "Personal data" means any data that identifies or could reasonably be linked, directly or indirectly, with a specific consumer or device.

2. (a) A reference price offered to a consumer through such consumer's online device shall not be generated by any online retailer or retail mercantile establishment, in whole or in part, based on any of the following input data, to the extent that it is not used or processed as personal data:

(i) The hardware or hardware state of such online device;

(ii) The presence or absence of any software on such online device. Provided, however, a consumer price may be offered to a consumer through the consumer's online device if the consumer has downloaded an application or software and opted into such application or software to purchase a product or service; or

(iii) Geolocation data of the online device.

(b) Notwithstanding subparagraph (iii) of paragraph (a) of this subdivision, the geolocation data of the online device may be used, and the consumer's location may be accounted for, to generate a reference price for the following reasons:

(i) To account for the differences in the costs or demands associated with providing a good or service to different consumers;

(ii) A surcharge based on the real-time demand for the product or service in the consumer's vicinity, if the product or service is provided immediately upon request; or

(iii) Pricing based on price variances at different physical locations, due to legitimate cost or demand differentials or state or local government taxes, duties, or other fees.

(c) This section shall not apply to any bona fide discounts or any other bona fide rebates, sales, or promotions that reduce the price of goods or services, that are offered or made available to the general public on the same terms, and do not incorporate input data as specified in paragraph (a) of this subdivision.

3. The duties and obligations pursuant to this section are cumulative with any other duties or obligations imposed under local, state, and federal law and shall not be construed to relieve any party from any duties or obligations imposed under any applicable laws.

4. Any person in violation of this article shall be subject to the remedies and penalties available pursuant to section three hundred forty-nine of this chapter and, in addition, shall be subject to a supplemental civil penalty of not more than five thousand dollars for the first violation, and twenty thousand dollars for each subsequent violation, or the profits earned by violating the section, whichever is greater, which may be recovered in a civil action brought by the attorney general. Whenever a court determines that a violation of this section has occurred, the court may impose any other civil penalty and/or remedy deemed appropriate by the court. Civil penalties imposed under this section and recovered by the attorney general shall be used to enforce consumer protection and data privacy.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.