STATE OF NEW YORK

9349

2025-2026 Regular Sessions

IN ASSEMBLY

December 17, 2025

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

AN ACT to amend the general business law, in relation to prohibiting the use of algorithmically set prices and requires the disclosure of automated pricing systems

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

Section 1. Section 349-a of the general business law, as added by section 1 of part X of chapter 58 of the laws of 2025, is amended to read as follows:

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

(a) "Algorithm" means a computational automated 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) "Personal data" means any data that identifies or could reasonably be linked, directly or indirectly, with a specific consumer or device. "Personal data" shall not include location data that is used by a for-hire vehicle as defined in section 19-502 of the administrative code of the city of New York or as otherwise defined in local law or rule, or a transportation network company vehicle as defined in section sixteen hundred ninety-one of the vehicle and traffic law, solely to calculate the fare based on mileage and trip duration between the passenger's pickup and drop-off locations.

(e) "Dynamic pricing" means pricing that fluctuates dependent on conditions.

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

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(f) "Personalized algorithmic pricing" means dynamic pricing set by an algorithm that uses personal data as defined in this section.

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

(h) "Automated pricing system" means a system which uses software and algorithms to adjust the prices of goods and services based on factors other than the consumers personal data.

2. [~~Any~~] **Prohibition on certain pricing practices. (a) No** entity [~~that sets~~] **shall set** the price of a specific good or service using personalized algorithmic pricing, [~~and that directly or indirectly, advertises, promotes, labels or publishes a statement, display, image, offer or announcement of personalized algorithmic pricing to a consumer in New York, using personal data specific to such consumer, 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"~~] **directly or indirectly, advertise, promote, label or publish a statement, display, image, offer or announcement using personalized algorithmic pricing to a consumer in New York, nor collect, use, retain, or disclose personal data for the purpose of facilitating surveillance pricing**.

(b) Any entity which uses an automated pricing system shall, in a clear and conspicuous manner, disclose the use of such automated pricing system and the categories of non-personal inputs that influence pricing set by such system.

3. Exceptions. Nothing in this section shall apply to:

(a) A person, firm, partnership, association, or corporation, or agent or employee thereof, who or that is subject to the insurance law or regulations promulgated thereunder.

(b) Any financial institution or affiliate of a financial institution, all as defined in 15 U.S.C. 6809, to the extent that the financial institution or affiliate is subject to Title V of the Gramm Leach Bliley Act (15 U.S.C. § 6801, et seq., as amended) and the rules and implementing regulations promulgated thereunder.

(c) A financial institution as defined in subsection (f) of section eight hundred one of the financial services law.

(d) A price that is offered to a consumer who has an existing subscription-based contract or subscription-based agreement for goods or services with an entity and where such price is less than the price for the same good or service set forth in the subscription-based agreement or subscription-based contract.

(e) Uniform, publicly disclosed discounts or promotional pricing offered equally to all consumers, regardless of personal data.

(f) Time-limited or inventory-based pricing that does not rely on personal data, including, but not limited to:

(i) posted promotional periods;

(ii) end-of-season sales;

(iii) early-bird or flash sales; and

(iv) supply or inventory-based adjustments.

(g) Loyalty programs, provided that:

(i) participation is voluntary;

(ii) all members of the program receive uniform pricing benefits and discounts;

(iii) pricing benefits are not based on personal data collected outside the loyalty program or on behavioral profiles unrelated to program transactions; and

(iv) the program provides clear and conspicuous disclosure of all data practices.

(h) Pricing required or expressly authorized by federal or state law.

(i) Bona fide discounts provided to larger groups of consumers including, but not limited to, bona fide discounts for military veterans, seniors, teachers, or active duty personnel.

4. Enforcement. Where the attorney general shall have reason to believe that there is an alleged violation of this section based upon, among other things, a consumer report of an alleged violation, the attorney general, in the name of the people of the state of New York, shall dispatch a cease and desist letter to the entity at issue, specifying the alleged violation or violations and the remedies to cure the violations within a designated timeline. Where, after receipt of the cease and desist letter and the expiration of such designated timeline, the entity continues to violate 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: (a) impose a civil penalty of not more than [~~one~~] ten thousand dollars for the first violation and twenty-five thousand dollars for each subsequent violation; (b) impose an additional civil penalty of not more than any profits earned by violating this section; (c) award restitution and damages on behalf of affected consumers; and/or (d) impose any other civil penalty and/or remedy deemed appropriate by the court. Civil penalties imposed under this section shall be used to enforce consumer protection and data privacy enforcement.

5. Private right of action. (a) Any person injured by a violation of this section may bring an action in any court of competent jurisdiction.

(b) Whenever the court shall determine that a violation of this section has occurred, the court may award the prevailing plaintiff:

(i) statutory damages of not less than five hundred dollars and not more than five thousand dollars per violation;

(ii) actual damages, including any overcharges or lost discounts;

(iii) injunctive or declaratory relief; and

(iv) reasonable attorneys' fees and costs.

(c) Each instance of the use of personalized algorithmic pricing or an undisclosed automated pricing system shall constitute a separate violation for purposes of calculating statutory and actual damages.

(d) Any agreement to waive or limit rights under this section shall be void as against public policy.

6. Construction. This section shall not be construed to limit any other criminal or civil liability such entity may be subject to under law.

§ 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.