STATE OF NEW YORK

8563

2025-2026 Regular Sessions

IN SENATE

November 3, 2025

Introduced by Sens. CLEARE, JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the general business law, in relation to enacting the "consumer grocery pricing fairness act"

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 "consumer grocery pricing fairness act".

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

1. Small and independent grocers and retailers are an indispensable part of the American and the New York state economy.

2. Despite their essential economic role, small and independent grocers and retailers often struggle to purchase goods on the same terms as their larger competitors, even if purchasing through co-operatives and distributors that provide comparable scale.

3. Buyer power of large retailers can force suppliers to limit sales to or raise prices for small and independent grocers and retailers.

4. Unfair and abusive pricing practices and terms of sale harm competition and deprive consumers of lower prices and product availability.

5. Retailers and wholesalers that are capable of purchasing at scale ought also to benefit from the discounts and benefits given to the largest retailers, ensuring that all consumers benefit from lower prices.

6. The harms from abusive buyer power extend beyond mere prices and can affect other parts of the retail business such as retail media networks.

§ 3. The general business law is amended by adding a new article 22-C to read as follows:

ARTICLE 22-C

CONSUMER GROCERY PRICING FAIRNESS

Section 350-j. Definitions.

350-k. Ensuring price fairness.

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

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350-l. Agency liability.
350-m. Defenses.
350-n. Covered supplier immunity.
350-o. Enforcement.
350-p. Rules of construction.

§ 350-j. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Antitrust laws" shall have the same meaning as in 15 USC 12(a) and shall also include:

(a) section five of the Federal Trade Commission Act to the extent such section applies to unfair methods of competition; and

(b) any antitrust laws of the state of New York.

2. "Channels of trade" means the distinct and diverse pathways through which covered goods are marketed, distributed, and sold to consumers in the United States, including traditional supermarkets, hypermarkets, discount stores, convenience stores, online or e-commerce retailers, specialty food stores, mass merchandisers, wholesale clubs, and any other retail establishments, platforms, or entities that engage in the sale of covered goods, either primarily or as a segment of their broader retail offering, and compete for consumer grocery dollars.

3. "Covered good" means a grocery item, including an item described in paragraph (1) or (2) of the definition of eligible foods under 7 CFR 271, or a consumer packaged good. The term "covered good" does not include gasoline, prescription drugs, tobacco, or alcoholic beverages.

4. "Covered retailer" means a person that sells covered goods to end purchasers at one or more physical locations in the state of New York.

5. "Covered supplier" means a person that:

(a) produces and sells covered goods in the state of New York; and

(b) sells, directly or through such person's agent or any third party with which such covered supplier contracts, covered goods produced or manufactured by such person, directly or through such person's agent or any third party with which such covered supplier contracts, to covered retailers or covered wholesalers in an aggregate amount exceeding six billion dollars per year, as adjusted each year by an amount equal to the percentage increase, if any, in the consumer price index for all urban consumers published by the U.S. department of labor.

6. "Covered wholesaler" means a person that purchases covered goods for the purpose of reselling or distributing them to covered retailers in the state of New York.

7. "Dominant covered retailer" means a covered retailer with:

(a) annual retail sales of covered goods in an aggregate amount exceeding eighteen billion dollars, as adjusted each year by an amount equal to the percentage increase, if any, in the consumer price index for all urban consumers published by the U.S. department of labor; and

(b) not less than one storefront or distribution center located in more than twenty states including the state of New York.

8. "Person" shall include:

(a) each entity that a person owns or controls, in whole or in part; and

(b) each entity that controls such person, in whole or in part.

9. "Pricing differential" means, with respect to the volume unit basis of a covered good purchased by a covered retailer or covered wholesaler compared to the volume unit basis of a product purchased by a dominant covered retailer:

(a) the difference in price of the product multiplied by the quantity sold; or

(b) the difference in the price equivalent of the terms of sale of the product, adjusted by the time value of money to account for any difference in payment terms, multiplied by the quantity sold.

10. "Same covered goods" means, with respect to two different covered goods, a covered good and any other covered good sold under the same brand that differs only in quantity or packaging.

11. "Same terms of sale" means, with respect to two different agreements, terms of sale that are identical on a per unit basis, excluding shipping and delivery costs, which may vary on account of distance, speed, or method of shipping and delivery, or availability of self-distribution.

12. "Terms of sale" means all substantive terms and conditions of sale commonly subject to negotiation and competition, including price, discounts, rebates, delivery terms, payment terms, package size, promotional allowances, marketing devices, merchandising arrangements, terms of distribution, and any other similar terms, considered on a per unit basis as appropriate.

13. "Volume unit basis" means the base unit of measurement, not exceeding a truckload, by which purchase quantities are measured in purchase agreements between a covered supplier and a covered retailer or covered wholesaler.

14. "Actual damages" means the pricing differential suffered by a covered retailer or covered wholesaler as a result of a violation of this article.

§ 350-k. Ensuring price fairness. It shall be unlawful for:

1. a covered supplier, directly or through its agent, to fail to extend the same terms of sale of a covered good to all covered retailers and covered wholesalers that purchase the covered good on the same volume unit basis in reasonably contemporaneous sales;

2. a covered supplier to fail to provide, within fourteen days of a written request from a covered retailer or covered wholesaler that has purchased a covered good or received an offer including terms of sale for a covered good from the covered supplier, directly or through its agent, the anonymized terms of sale from all contracts with dominant covered retailers that purchased the same covered good on the same volume unit basis during the one hundred eighty day period prior to which the purchase or offer including terms of sale was made;

3. a covered supplier, directly or through its agent, to refuse the sale of a covered good to a covered retailer or covered wholesaler on the basis of a distinction in channels of trade, or other similar basis, if the effect is to facilitate a difference in terms of sale in violation of subdivision one of this section;

4. a covered supplier, directly or through its agent, to refuse the sale of a covered good to a covered retailer or a covered wholesaler if:

(a) the covered retailer is not a dominant covered retailer;

(b) the covered retailer or the covered wholesaler has made and completed payment for purchases from the covered supplier within the previous twelve months;

(c) the covered retailer or the covered wholesaler has made a request of the covered supplier to provide to such retailer or wholesaler the same terms of sale provided to other covered retailers or covered wholesalers, consistent with the terms of this section; and

(d) a refusal by the covered supplier to sell a covered good to the covered retailer or covered wholesaler has no commercially reasonable justification;

5. a dominant covered retailer, or its purchasing agent or any third party through which a dominant covered retailer contracts to purchase covered goods, to impose on or require of a covered supplier terms of sale with respect to a covered good if the dominant covered retailer knows, or reasonably should know, that:

(a) the dominant covered retailer, or its purchasing agent, thereby will acquire more of the covered good than the dominant covered retailer can sell between the regular purchase intervals of the dominant covered retailer; and

(b) purchases by the dominant covered retailer, or its purchasing agent, under the terms of sale are likely to result in unreasonably diminished availability of the covered good to another covered retailer; or

6. a dominant covered retailer, or its purchasing agent or any third party through which a dominant covered retailer contracts to purchase covered goods, directly or indirectly, to take any action that such dominant covered retailer, purchasing agent, or third party intends, knows, or should know will coerce or induce a covered supplier to violate this section.

§ 350-l. Agency liability. A covered supplier or dominant covered retailer, as applicable, shall be liable for any violation of section three hundred fifty-k of this article by a contracted third party.

§ 350-m. Defenses. A person alleged to have engaged in unlawful conduct described in section three hundred fifty-k of this article shall not be liable for such conduct on showing, by a preponderance of the evidence, that:

1. any difference in the terms of sale was predominantly attributable to a covered retailer engaging in self-distribution of the covered good at issue or otherwise lowering the overall costs of the covered supplier through genuine efficiencies, such as economies in distribution or manufacturing;

2. a covered retailer voluntarily accepted terms of sale relating to a covered good that were not the same terms of sale as the terms of sale of another covered retailer in exchange for commercially reasonable consideration, provided the acceptance of such terms was neither pretextual, coerced, nor made under duress; or

3. the terms of sale applied only to cases in which there was an actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

§ 350-n. Covered supplier immunity. Provided that a covered supplier did not collude with the relevant dominant covered retailer in any scheme violative of the antitrust laws, a covered supplier shall be immune from liability for a violation of section three hundred fifty-k of this article where the defendant covered supplier shows by a preponderance of the evidence that:

1. the violation was imposed on or required of the defendant covered supplier by a dominant covered retailer;

2. the defendant covered supplier would have suffered substantial harm to its business were it to refuse the demand of the dominant covered retailer; and

3. the defendant covered supplier made a good faith effort to disclose the dominant covered retailer's conduct to the attorney general.

§ 350-o. Enforcement. The attorney general or a person injured by a violation of this article may file suit to:

1. obtain an injunction to cure a violation of this article; and/or

2. obtain a civil penalty in an amount not greater than three times the actual damages.

§ 350-p. Rules of construction. 1. Notwithstanding any provision of this article, this article shall not be construed to limit, impair, or supersede any of the antitrust laws.

2. Nothing in this article shall be construed to require any person to do business with any other person, unless the refusal to do so would violate a provision of this article.

§ 4. This act shall take effect immediately.