

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 Assem-
bly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "consumer grocery pricing fairness act".

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

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

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

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

12 4. Unfair and abusive pricing practices and terms of sale harm compe-
13 tition and deprive consumers of lower prices and product availability.

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

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

20 § 3. The general business law is amended by adding a new article 22-C
21 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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1 350-l. Agency liability.

2 350-m. Defenses.

3 350-n. Covered supplier immunity.

4 350-o. Enforcement.

5 350-p. Rules of construction.

6 § 350-j. Definitions. For the purposes of this article, the following
7 terms shall have the following meanings:

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

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

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

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

21 3. "Covered good" means a grocery item, including an item described in
22 paragraph (1) or (2) of the definition of eligible foods under 7 CFR
23 271, or a consumer packaged good. The term "covered good" does not
24 include gasoline, prescription drugs, tobacco, or alcoholic beverages.

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

27 5. "Covered supplier" means a person that:

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

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

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

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

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

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

47 8. "Person" shall include:

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

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

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

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

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

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

7 11. "Same terms of sale" means, with respect to two different agree-
8 ments, terms of sale that are identical on a per unit basis, excluding
9 shipping and delivery costs, which may vary on account of distance,
10 speed, or method of shipping and delivery, or availability of self-dis-
11 tribution.

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

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

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

25 § 350-k. Ensuring price fairness. It shall be unlawful for:

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

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

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

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

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

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

49 (c) the covered retailer or the covered wholesaler has made a request
50 of the covered supplier to provide to such retailer or wholesaler the
51 same terms of sale provided to other covered retailers or covered whole-
52 salers, consistent with the terms of this section; and

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

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

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

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

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

20 § 350-l. Agency liability. A covered supplier or dominant covered
21 retailer, as applicable, shall be liable for any violation of section
22 three hundred fifty-k of this article by a contracted third party.

23 § 350-m. Defenses. A person alleged to have engaged in unlawful
24 conduct described in section three hundred fifty-k of this article shall
25 not be liable for such conduct on showing, by a preponderance of the
26 evidence, that:

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

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

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

41 § 350-n. Covered supplier immunity. Provided that a covered supplier
42 did not collude with the relevant dominant covered retailer in any
43 scheme violative of the antitrust laws, a covered supplier shall be
44 immune from liability for a violation of section three hundred fifty-k
45 of this article where the defendant covered supplier shows by a prepon-
46 derance of the evidence that:

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

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

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

54 § 350-o. Enforcement. The attorney general or a person injured by a
55 violation of this article may file suit to:

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

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

3 § 350-p. Rules of construction. 1. Notwithstanding any provision of
4 this article, this article shall not be construed to limit, impair, or
5 supersede any of the antitrust laws.

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

9 § 4. This act shall take effect immediately.