

STATE OF NEW YORK

8623

2025-2026 Regular Sessions

IN SENATE

December 19, 2025

Introduced by Sen. MAY -- 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 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:

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

4 § 349-a. Pricing. 1. Definitions. As used in this section, the follow-
5 ing terms shall have the following meanings:

6 (a) "Algorithm" means a computational automated process that uses a
7 set of rules to define a sequence of operations.

8 (b) "Clear and conspicuous disclosure" means disclosure in the same
9 medium as, and provided on, at, or near and contemporaneous with every
10 advertisement, display, image, offer or announcement of a price for
11 which notice is required, using lettering and wording that is easily
12 visible and understandable to the average consumer.

13 (c) "Consumer" means a natural person who is seeking or solicited to
14 purchase, lease or receive a good or service for personal, family or
15 household use.

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

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

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

LBD14235-01-5

(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

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

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

4 (i) Bona fide discounts provided to larger groups of consumers includ-
5 ing, but not limited to, bona fide discounts for military veterans,
6 seniors, teachers, or active duty personnel.

7 4. Enforcement. Where the attorney general shall have reason to
8 believe that there is an alleged violation of this section based upon,
9 among other things, a consumer report of an alleged violation, the
10 attorney general, in the name of the people of the state of New York,
11 shall dispatch a cease and desist letter to the entity at issue, speci-
12 fying the alleged violation or violations and the remedies to cure the
13 violations within a designated timeline. Where, after receipt of the
14 cease and desist letter and the expiration of such designated timeline,
15 the entity continues to violate this section, an application may be made
16 by the attorney general in the name of the people of the state of New
17 York to a court or justice having jurisdiction by a special proceeding
18 to issue an injunction, and upon notice to the respondent of not less
19 than five days, to enjoin and restrain the continuance of such
20 violations; and if it shall appear to the satisfaction of the court or
21 justice that the respondent has, in fact, violated this section, an
22 injunction may be issued by such court or justice, enjoining and
23 restraining any further violation, without requiring proof that any
24 person has, in fact, been injured or damaged thereby. Whenever the court
25 shall determine that a violation of this section has occurred, the court
26 may: (a) impose a civil penalty of not more than [one] ten thousand
27 dollars for the first violation and twenty-five thousand dollars for
28 each subsequent violation; (b) impose an additional civil penalty of not
29 more than any profits earned by violating this section; (c) award resti-
30 tution and damages on behalf of affected consumers; and/or (d) impose
31 any other civil penalty and/or remedy deemed appropriate by the court.
32 Civil penalties imposed under this section shall be used to enforce
33 consumer protection and data privacy enforcement.

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

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

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

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

41 (iii) injunctive or declaratory relief; and

42 (iv) reasonable attorneys' fees and costs.

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

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

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

51 § 2. This act shall take effect on the one hundred eightieth day after
52 it shall have become a law. Effective immediately, the addition, amend-
53 ment and/or repeal of any rule or regulation necessary for the implemen-
54 tation of this act on its effective date are authorized to be made and
55 completed on or before such effective date.