

New York's Algorithmic Pricing Disclosure Law Takes Effect

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New York Attorney General Letitia James recently announced that on November 10, 2025, New York's Algorithmic Pricing Disclosure Act (the "Act") officially took effect. Codified at N.Y. Gen. Bus. Law § 349-a, the Act requires that companies making use of consumer-specific data to set prices clearly and inform consumers when those prices have been determined by an algorithm. It was enacted as part of New York's omnibus budget bill, which also introduced other consumer protection measures, including amendments to the state's Automatic Renewal Law that we covered in [June](#). This measure reflects emerging legislative interest in addressing "surveillance pricing", or individualized pricing practices that rely on personal data to adjust the cost of goods or services.

Core Requirements

Under the Act, any entity doing business in New York that dynamically sets the price of a good or service using an algorithm informed by consumer personal data must include a clear and conspicuous disclosure stating:

"THIS PRICE WAS SET BY AN ALGORITHM USING YOUR PERSONAL DATA".

The disclosure must be clear and conspicuous; it must appear "on, at, or near and contemporaneous" with every applicable pricing offer or display and be "easily visible and understandable." The law applies broadly, capturing both online and brick-and-mortar pricing, though it carves out certain businesses and practices, including insurers, financial institutions subject to federal privacy laws, and subscription-based pricing that offers a lower price to existing customers. Personal data is also defined broadly by the statute and, "means any data that identifies or could reasonably be linked, directly or indirectly, with a specific consumer or device."

Violations can lead to civil penalties of up to \$1,000 per violation, enforced by the New York AG, who must first issue a cease-and-desist letter with a specified cure period before enforcing the Act. Additionally, the Act does not "limit any other criminal or civil liability," which could be interpreted as allowing other actions under New York's consumer protection laws (and corresponding additional penalties). Importantly, like many state consumer protection statutes, the statute does not require proof of consumer injury.

Attorney General Consumer Guidance

Ahead of the effective date, Attorney General Letitia James issued a [consumer alert](#) warning that algorithmic pricing practices, such as charging higher prices based on zip code, must now be disclosed. AG James specifically noted that these practices are "most commonly" found in apps and loyalty programs, where businesses use customer data to tailor discounts or prices. AG James

encouraged New Yorkers to compare prices offered online and in-store, or to monitor how prices change when shopping from different locations or devices compared to others, urging the public to report suspected violations. While this guidance aims to empower consumers, it also invites a broad reading of what counts as algorithmic pricing. Some lawful pricing differences may appear on their face to involve personal data even though they may reflect ordinary market factors rather than profiling.

Unsuccessful Legal Challenge

The law faced an early challenge from the National Retail Federation, which argued that the disclosure requirements violated the First Amendment because it forced businesses “to express a misleading and controverted government-scripted opinion without justification.” Judge Jed S. Rakoff of the U.S. District Court for the Southern District of New York rejected that claim and granted the State’s motion to dismiss, finding the statement is “factual and uncontroversial” and “reasonably related to the government’s legitimate interest in ensuring that consumers are ‘inform[ed]’ about the terms on which products are offered to them, including the price.” The court explained that a business’s preference “not to make the disclosure, or to make a different statement” does not render the requirement unconstitutional, ultimately clearing the law to take effect.

Practical Takeaways

Businesses should assess how their pricing models operate and document the data driving them. If you are using dynamic or personalized pricing, be prepared to explain what variables inform those changes and ensure you have documentation to substantiate these representations. And consider how and exactly where you will provide your specific clear and conspicuous disclosure.

Businesses should also monitor emerging state legislation as several states are considering similar disclosure or transparency requirements. The result may be a new patchwork of obligations that vary between jurisdictions.