ASSEMBLY, No. 5488

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 17, 2021

Sponsored by:
Assemblywoman VALERIE VAINIERI HUTTLE
District 37 (Bergen)
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District 31 (Hudson)

SYNOPSIS

Prohibits gender-based price discrimination.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 3/17/2021)

AN ACT concerning gender-based price discrimination and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Prohibition Against Gender-Based Pricing Discrimination Act."

2. a. A business shall not discriminate based on gender with regard to the price charged for a service offered by the business.

b. A business shall not charge different prices for any two consumer products from the same manufacturer that are substantially similar, if those products are priced differently solely based on the gender of the individuals for whom the products are intended or marketed. For purposes of this subsection, two products are substantially similar if there are no significant differences in the materials used in the products, the function of the products, and the functional design or features of the products. A difference in color or packaging among consumer products shall not, by itself, be construed as a substantial difference.

c. The provisions of subsection a. and b. of this section shall not be construed to prohibit price differences based upon labor, materials, tariffs, or any other gender-neutral reason, including when a retail establishment passes through a price to the consumer that is set by a manufacturer, distributor, or other entity that is beyond the retailer's control.

d. (1) The following businesses shall clearly and conspicuously disclose to the customer in writing the pricing for each standard service provided: tailors or other businesses providing aftermarket clothing alterations; barbers or hair salons; and dry cleaners and laundries providing services to individuals.

(2) The pricing shall be posted in an area conspicuous to customers. Posted price lists shall be in no less than 14-point boldface type and clearly and completely display pricing for every standard service offered by the business as required by paragraph (1) of this subsection.

(3) A business shall provide a customer with a complete written price list upon request.

(4) The business shall display in a conspicuous place at least one clearly visible sign, printed in no less than 24-point boldface type, which reads: "NEW JERSEY LAW PROHIBITS ANY BUSINESS ESTABLISHMENT FROM DISCRIMINATING AGAINST A PERSON BECAUSE OF THE PERSON'S GENDER, WITH RESPECT TO THE PRICE CHARGED FOR SERVICES OF SIMILAR OR LIKE KIND. A COMPLETE PRICE LIST IS AVAILABLE UPON REQUEST."

e. For the purposes of this section, "business" means a sole proprietorship, partnership, corporation, association, or other entity, however organized and whether or not organized to operate at a profit, that offers services and products to New Jersey consumers.

3. A violation of the provisions of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) is an unlawful practice pursuant to P.L.1960, c.39 (C.56:8-1 et seq.).

4. This act shall take effect on the first day of the fourth month next following the date of enactment.

STATEMENT

This bill prohibits businesses in New Jersey from engaging in gender-based priced discrimination. Commonly referred to as the "pink tax" or "gender tax," gender-based discrimination occurs when products and services marketed and intended for use by girls and women are priced higher than comparable products and services for boys and men.

The bill provides that a business in the State is prohibited from:

(1) discriminating based on gender with regard to the price charged for a service offered by the business; and

(2) charging prices for any two consumer products from the same manufacturer that are substantially similar, if those products are priced differently solely based on the gender of the individuals for whom the products are intended or marketed. For the purposes of the bill, two products would be considered "substantially similar" if there are no significant differences in the materials used in the products, the function of the products, and the functional design or features of the products. A difference in color or packaging among consumer products would not, by itself, be construed as a substantial difference.

The bill specifies that its provisions would not be construed to prohibit price differences based upon labor, materials, tariffs, or any other gender-neutral reason, including when a retail establishment passes through a price to the consumer that is set by a manufacturer, distributor, or other entity that is beyond the retailer's control.

Under the bill, the following businesses would be required to clearly and conspicuously disclose to the customer in writing the pricing for each standard service provided:

(1) tailors or other businesses providing aftermarket clothing alterations;

(2) barbers or hair salons; and

(3) dry cleaners and laundries providing services to individuals.

The bill requires the pricing to be posted in an area conspicuous to customers. Posted price lists are required to be in no less than 14-

point boldface type and clearly and completely display pricing for every standard service offered by the business. Additionally, business are required to provide a customer with a complete written price list upon request. The bill further requires businesses to display in a conspicuous place at least one clearly visible sign, printed in no less than 24-point boldface type, notifying customers that gender-based price discrimination is prohibited under New Jersey law.

A violation of the bill's provisions is an unlawful practice under the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). An unlawful practice is punishable by a monetary penalty of not more than $10,000 for a first offense and not more than $20,000 for any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to the injured.