

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2039

STATE OF NEW JERSEY

DATED: MARCH 11, 2021

The Senate Commerce Committee reports favorably Senate Bill No. 2039.

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.