

New York enacts Algorithmic Pricing Disclosure requirements: Effective date of new AI disclosure quickly approaching

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States everywhere are considering whether and how to best regulate business use of artificial intelligence (“AI”). While the California Privacy Protection Agency (“CPPA”) recently struck all references to AI from its proposed privacy regulations, other states like Colorado continue to forge ahead, despite, for example, attempts to postpone the effective date of the Colorado AI Act. This is all the while the federal government debates whether to issue a 10-year moratorium on state AI laws.

In New York, a series of new consumer protection requirements recently passed the state legislature and were signed into law by Governor Hochul as part of the Transportation, Economic Development and Environmental Conservation Article VII Legislation section of the [FY 2026 New York State Executive Budget](#) (the “Ted Bill”).

Included among those consumer protections were algorithmic pricing disclosure requirements (Part X of the TED Bill) which has an effective date of July 8.

Algorithms can be used to dynamically price products and services by analyzing real-time data and adjusting prices based on market conditions, customer behavior, and other relevant factors like zip code. Prominent examples of algorithmic-driven dynamic pricing include everything from surge pricing for ride shares to hotel and flight ticket prices changing based on seasonality and demand to e-commerce brands adjusting pricing based on cart abandonment, customer location, or offering personalized discounts. While not all dynamic pricing requires the processing of personal data, a large percentage does especially in the e-commerce space.

Part X is aimed at ensuring consumers are notified when prices they see are influenced by algorithms that use their personal data. Part X does this by amending New York’s General Business Law (GBL) to introduce transparency requirements for businesses using personal data for algorithmic pricing, and by prohibiting the use of protected class data for dynamic pricing purposes.

The effective date of Part X requirements of the TED Bill is July 8.

Part X: Algorithmic Pricing Key Requirements

Definitions

- **Algorithm:** An automated computational process using rules to determine a sequence of operations.
- **Dynamic Pricing:** Pricing that changes based on external or internal conditions.
- **Personalized Algorithmic Pricing:** Dynamic pricing determined using personal data.
- **Personal Data:** Any data that directly or indirectly identifies a consumer or device.
- **Protected Class Data:** Information that implicates or identifies a characteristic that is legally protected from discrimination under the laws of New York or federal law, including but not limited to ethnicity, national origin, disability, age, sex, sexual orientation, gender identity and expression.

* Note: Certain location data used solely for fare calculation in transportation is excluded.

Disclosure Obligation

Any business (referred to as an “entity”) that uses an algorithm to set prices based on personal data, and publishes or advertises these prices to consumers in New York must clearly and conspicuously disclose: “This price was set by an algorithm using your personal data.”

The disclosure must be made at or near the price in the same medium (e.g., online display, printed offer) and be easily visible and understandable to the average consumer.

Prohibition on Use of Protected Class Data

Part X prohibits using protected class data in setting a price for, marketing, or selling any good or service in certain instances, including where the price for such good or service is different from the price offered to other groups based in whole or in part on the use of protected class data.

Enforcement & Penalties

- **Deceptive Act or Practice:** Failure to comply with the disclosure requirements of Part X constitutes a deceptive act or practice under New York law, which can be enforced through consumer actions and by the State Attorney General.

- **Attorney General Enforcement:** Part X allows the New York State Attorney General to:
 - Issue a cease-and-desist letter identifying violations and setting a cure period
 - Seek injunctive relief in court if violations persist beyond the cure period.
- **Penalties:**
 - Up to \$1,000 per violation
 - No showing of consumer injury is required
 - This is in addition to any other civil or criminal penalties under existing law.

Exemptions

The law does not apply to:

- Insurance entities governed by New York Insurance Law
- Financial institutions covered by the Gramm-Leach-Bliley Act
- Financial institutions under the New York Financial Services Law
- Prices offered as part of existing subscription-based agreements, if lower than the agreed-upon rate.

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