

New York Legislature Passes Ban on Personalized Pricing



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Last week, the New York State Legislature passed the **One Fair Price Act** (S.8623B/A.9349B) (the Act), a bill that prohibits businesses from using personal data—such as purchase history, browsing history, real-time location, income, or inferred household size—to generate individual prices for consumers. While the Act bans so-called “surveillance pricing,” or personalized pricing, companies may still use “dynamic pricing” algorithms, subject to a modified disclosure requirement, so long as the algorithm does not set prices based on consumer personal data. The bill now awaits the signature of Governor Kathy Hochul, who has until December 31, 2026, to act.

What the Act Does

The One Fair Price Act amends Section 349A of New York’s General Business Law to explicitly prohibit “surveillance pricing” and bar the collection, use, retention, or sharing of personal data to facilitate such pricing. Notably, the legislation explicitly carves out bona fide discounts, including loyalty programs, coupons, and subscribe-and-save arrangements, as well as standard promotions for categories of consumers such as veterans and seniors. The Act would also require companies that use “dynamic pricing” algorithms to automatically adjust prices based on factors other than a consumer’s personal data to “clearly and conspicuously” disclose the use of this tactic, the frequency with which price changes may occur, and the conditions that factor into the dynamic pricing.

The Act authorizes the New York Office of the Attorney General (OAG), to seek cease-and-desist orders, injunctive relief, and civil penalties. OAG may bring civil cases for penalties and restitution against companies or retailers that price goods or services using algorithms based on personal data. An earlier version of the bill included a private right of action, which would allow individuals to independently sue companies for violating the law, but the provision was removed during negotiations.

How the Act Changes the Law in New York

The Act represents a significant escalation from New York’s existing laws regulating the use of algorithmic pricing tools. New York’s **Algorithmic Pricing Disclosure Act** (N.Y. Gen. Bus. Law 349-A) took effect November 10, 2025, and requires businesses to *disclose* when they use algorithms to set personalized prices but does not prohibit the practice itself. Under the existing law, companies must display a clear, contemporaneous disclosure stating, “THIS PRICE WAS SET BY AN ALGORITHM USING YOUR PERSONAL DATA,” with civil penalties of up to \$1,000 per violation for non-compliance. The One Fair Price Act would eliminate the personalized pricing disclosure requirement, banning the practice entirely, and would create new legal obligations for companies that use dynamic pricing algorithms that vary prices more than once daily. Violations would be subject to civil penalties of up to \$5,000 for the first violation, and up to \$20,000 for each subsequent violation, or the profits earned by such violation, if that amount is greater.

The Act moves New York from a disclosure-only regime to an outright ban on data-driven personalized pricing, representing a categorical shift in the legal obligations and exposure of businesses operating in the state. If enacted, the Act would require covered businesses to reassess their use of data-driven pricing algorithms in New York.

A Growing National Trend

State legislation regulating the use of algorithmic pricing tools has become part of a broader push to end the use of data to adjust prices that began under the Biden administration's Federal Trade Commission (FTC).¹ With the change in administrations, states have picked up the baton to advance their own algorithmic pricing regulatory initiatives.

If the One Fair Price Act becomes law, New York would be the third U.S. state to address personalized pricing, following Maryland (which enacted a law to prohibit dynamic pricing for food retailers and third-party delivery service providers) and Connecticut (which enacted a similar prohibition as Maryland and also requires disclosure of personalized pricing practices). Additional states, including California and New Jersey, are considering comparable proposals.

Conclusion

Algorithmic pricing tools continue to face scrutiny. Businesses that use algorithmic pricing tools informed by consumer data should evaluate their current practices against this emerging state-law landscape. Companies should seek legal counsel for guidance on their use of third-party tools.

For further information, please contact a member of Wilson Sonsini's [Data, Privacy, and Cybersecurity](#) practice or [Antitrust and Competition](#) practice.

¹See <https://www.ftc.gov/news-events/features/surveillance-pricing>.